

ZB# 92-45

Robert Bernhardt

69-4-9.1

Prelim.

Nov. 23, 1992.

Tabled - For addl. info.

Need copies of:

- ① Need it here ^{needed here}
- ② Title Report
- ③ Photos - Home & garage ^{there}
- ④ Info. on easement
- ⑤ Fees: \$150.00 } ^{if any; New N.O.D. Fee}
250.00 }
- ⑥ Research old ZBA

files for variances
previously granted;
No variances granted.

Prelim. - 2nd

Dec. 28, 1992.

Motion to
Sched P.H.

Notice to Sentenel 1/19/93

Public Hearing:

Feb. 8, 1993.

Cura Variances

Approved -

#92-45- Bernhardt, Robt.
Cura

MADE IN U.S.A.

NO. 753 1/3

ESSELTE

Oxford

F.D.
Add'l fee due \$288.50
Paid 3/26 100.00
\$188.50 bal in 4/93

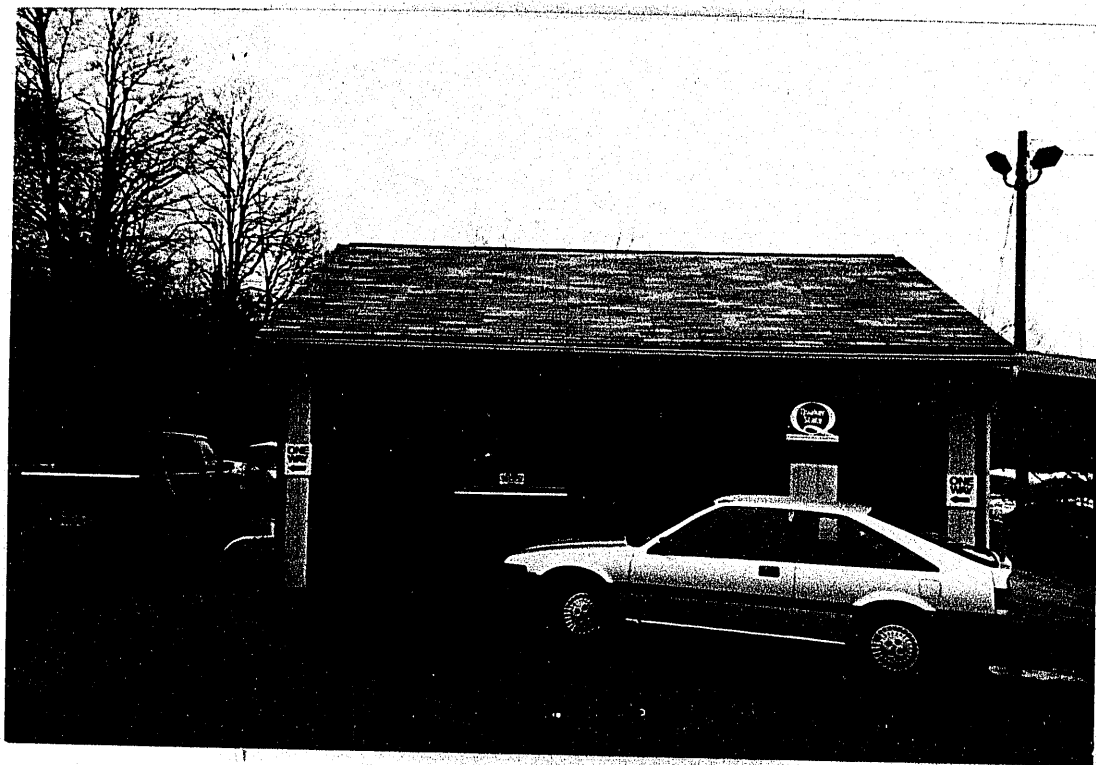
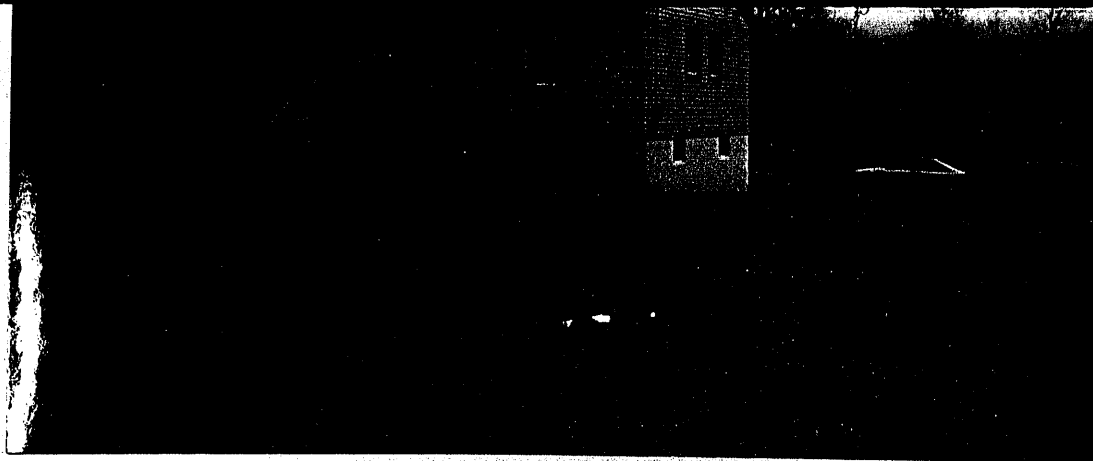
Paid -

Check # 1528



0117221-124101-11-11-11

CO#221-Duarte, A. & M.



TOWN OF NEW WINDSOR
555 Union Avenue
New Windsor, NY 12550

GENERAL RECEIPT

13100

Received of Auto Bovers

January 19, 1993

\$ 150.00

One hundred and 00/100

DOLLARS

For ZBA Application Fee (#92-45)

DISTRIBUTION:

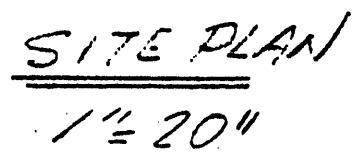
FUND	CODE	AMOUNT
Check # 1507		\$ 150.00

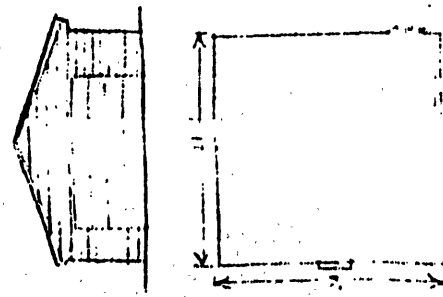
By

Pauline B. Towne

Town Clerk

Title





EXISTING BACK TOP

30.5'

30.5'

EXISTING
BACK TOP

UC
WALL

WALL

FRAME
RANCH

WOODEN
DECK

2" WITH STABILIZED SURFACE

15'

162' 45'

SEWER MANHOLE
N/F V. CURRY

SITE PLAN
1" = 20'

N/F BOWEN

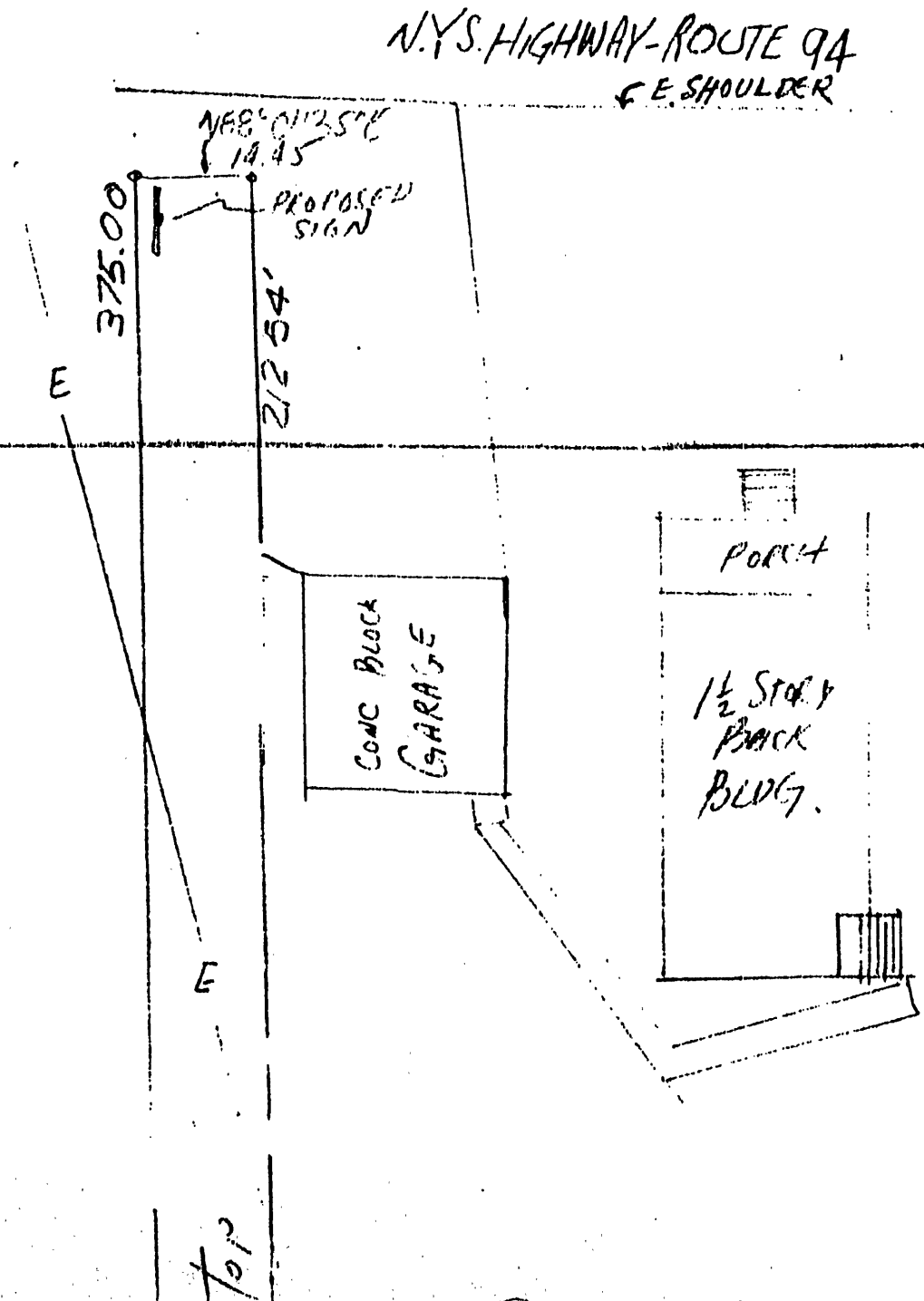
WELL

6" TREE

TREE ROW

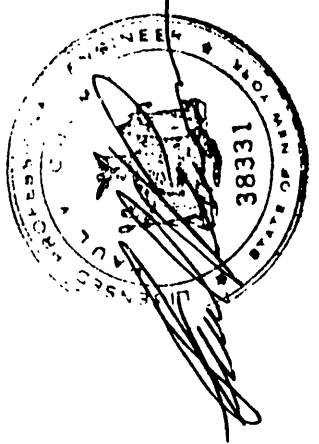
GRASSY POND

[Handwritten signature]



TO VA'S GARAGE →

SITE PLAN
 BY TUNING
 ON 11/13/1987
 APPROVAL GRANTED
 PLANNING BOARD
 BY *Lawrence Jones*
 LAWRENCE JONES
 SECRETARY



LANDS OF ROBERT & COLLEEN BERNHARDT	
SCALE 1" = 20'	APPROVED BY
DATE JUNE 5, 1988	DRAWN BY PVC
SITE PLAN FOR NEW GARAGE (SPECIAL USE)	
DRAWING NUMBER	

APPLICATION FEE (DUE AT TIME OF FILING OF APPLICATION)

APPLICANT: Bernhardt, Robt.

FILE # 92-45

RESIDENTIAL: \$50.00

COMMERCIAL: \$150.00

APPLICATION FOR VARIANCE FEE \$ 150.00

* * * * *

pd. 1/19/93 #1507

ESCROW DEPOSIT FOR CONSULTANT FEES \$ 250.00

pd. 1/19/93 #1508

DISBURSEMENTS -

STENOGRAPHER CHARGES:

PRELIMINARY MEETING - PER PAGE 11/23/92-12 pages . \$ 54.00
2ND PRELIM. MEETING - PER PAGE 12/23/92-9 pages . \$ 40.50
3RD PRELIM. MEETING - PER PAGE \$.
PUBLIC HEARING - PER PAGE 2/8/93-.12 pages . \$ 54.00

TOTAL \$ 148.50

ATTORNEY'S FEES:

PRELIM. MEETING- .1 HRS. \$.
2ND PRELIM. .6 HRS. \$.
3RD PRELIM. . HRS. \$.
PUBLIC HEARING .3 HRS. \$.
FORMAL DECISION 1.6 HRS. \$.

TOTAL HRS. 2.6 @ \$ 150.00 PER HR. \$ 390.00
TOTAL \$ 390.00

MISC. CHARGES:

TOTAL \$ 538.50

LESS ESCROW DEPOSIT . . . \$ 250.00
(ADDL. CHARGES DUE) . . . \$ 288.50
REFUND TO APPLICANT DUE . \$.

(ZBA DISK#7-012192.FEE)

-----X

In the Matter of the Application of

DECISION GRANTING
AREA VARIANCE

ROBERT BERNHARDT,

#92-45.

-----X

WHEREAS, ROBERT BERNHARDT, Route 94, P. O. Box 407, Vails Gate, N. Y. 12584, has made application before the Zoning Board of Appeals for (1) 22,288 s.f. lot area, (2) 100 ft. lot width, (3) 25 ft. front yard, (4) 29 ft. side yard, (5) 26 ft. total side yard, (6) 15 ft. rear yard and (7) 19 ft. 8 in. maximum building height variances for construction of an addition to an existing garage to be used as a muffler shop and service repair garage located at the above address located in a C zone; and

WHEREAS, a public hearing was held on the 8th day of February, 1993 before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

WHEREAS, applicant appeared in behalf of himself and spoke in support of the application; and

WHEREAS, there were six (6) spectators appearing at the public hearing, five of whom spoke concerning the application and, of those, only one of whom was opposed to the granting of the requested variances; to wit, RUSS MC MILLEN raised a question about the applicant's access over a driveway and, after receiving applicant's answer, was in favor of the application; BRENDA PETERSON, who, along with RUSS MC MILLEN, had thought that the application pertained to other property with a different means of access, and after learning the actual means of access, had no opinion on the application; MARY BREWER raised a question about smoke and fumes and, after the same was discussed, had no opinion on the application; WILLIAM BREWER, who did not speak or state any opinion; JAY ERNST, who owns adjacent property, which he said was available for purchase by the applicant, and who was concerned about refuse, noise and other pollution, but who had no opinion on the application other than the above concerns, (and, it should be noted parenthetically, that the applicant stated that, before proceeding with the instant application, he had investigated the possibility of purchasing additional land from Mr. Ernst's father and was unable to reach any agreement so he proceeded with the instant application, having been informed for the first time at the public hearing that Mr. Ernst now would consider selling him additional land; and FRANK SIGMORELLI, who questioned the parking (which complies with the bulk regulations) and was opposed to the granting of the requested variances upon the grounds that the applicant has insufficient lot area; and

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor makes the following findings of fact in this matter:

1. The notice of public hearing was duly sent to residents and businesses as prescribed by law and published in The Sentinel, also as required by law.

2. The evidence shows that applicant is seeking permission to vary the provisions of the bulk regulations relating to lot area, lot width, front yard, side yard, total side yards, rear yard and building height in order to construct an addition to his existing garage to be used as a muffler shop and service repair garage at the above location in a C zone.

3. The evidence presented by the applicant substantiated the fact that a variance for less than the allowable lot area, lot width, front yard, side yard, total side yards, rear yard and more than the allowable building height would be required in order to allow construction of an addition to the existing garage which otherwise would conform to the bulk regulations in the C zone.

4. The evidence presented by the applicant indicated that the house was constructed approximately in 1972. Apparently the property had been used for both residential use and used car sales before the time of applicant's purchase of the property since a Certificate of Occupancy was issued on March 1, 1984 for "one family residential and used car sales" and said Certificate of Occupancy further stated "CO for use only".

5. The evidence presented by the applicant further indicated that in 1986 he applied to the Town of New Windsor Planning Board for site plan approval and for a special use permit in order to construct a then-new garage to be used as a service repair garage. The Site Plan for New Garage (special use), dated 6/5/86, which was submitted to the Planning Board did not contain a zoning table and did not show that any variances were required. The only offsets to property lines shown were for the new garage and these showed 15 ft. clear on both side and rear yards.

6. The current Building Inspector for the Town of New Windsor, Michael Babcock, was present at the second preliminary hearing on this applicant's proposal, on the 28th day of December, 1992, and stated that in 1986 and 1987, when the applicant's site plan and special use permit applications were before the Planning Board, it was not the then policy of the Planning Board to require that an existing building be brought up to current code specifications on a change of use. This is in contrast to the current policy of citing an applicant for all deficiencies of the building or site, relative to the current code specifications, upon any application, unless the same are shown to be pre-existing, non-conforming or permitted by virtue of a previously granted variance.

7. Thus, it is the finding of this Board that the Planning Board is considering applicant's site plan and special use permit application never raised or considered the several deficiencies from the requirements of the bulk regulations which were inherent therein, and the applicant was never directed to seek relief from

the Zoning Board of Appeals by way of an area variance application, for the failure to comply with the bulk regulations.

8. The Town of New Windsor Planning Board at its August 26, 1986 meeting approved the special use permit application of the applicant "to permit working on cars, waxing, body side mouldings and pinstriping, etc." with the following limitation "Note: Not to exceed more than ten (10) cars".

9. Thereafter, the applicant's map of the Site Plan for New Garage was stamped "Site Plan Approved Granted by the Town of New Windsor Planning Board on November 13, 1987".

10. The applicant presented evidence that he previously was in the business primarily of installing window tinting and rustproof coatings on new cars. Due to changes in laws and automobile manufacturers' warranties, these two activities are no longer in much demand and the applicant believes that he must expand his business to be able to continue operating a business. Consequently, the applicant desires to operate his business as a muffler shop and service repair garage. However, in order to perform these services, applicant needs to install a four-post automotive lift and this in turn requires a higher building than he has at the present time. Consequently the applicant is seeking permission to construct a 16 ft. by 24 ft. addition to his existing garage with a maximum building height of 20 ft. in order to accommodate the necessary lift.

11. This proposed construction generates the need for the 19 ft. 8 in. maximum building height variance because of the close proximity to a property line. This is the only one of the instant variance requests which is created by the applicant's proposed new construction. All six of the other area variance requests made on this application arise from the existing conditions on the site which have been operating there pursuant to the previously issued Certificate of Occupancy and the previously granted site plan approval and special use permit.

12. The applicant submits the instant application in order to seek area variances for all currently existing, as well as the one proposed, deficiencies from the requirements of the bulk regulations pertaining to this property.

13. It is the finding of this Board that the applicant possibly could have eliminated or reduced the magnitude of his area variance requests if he had been able to acquire additional contiguous property. The applicant indicated that he had investigated the possibility of acquiring the adjacent Curry property but was unable to reach an agreement with the then-owner (who is now deceased). Thus, he submitted the instant application. This Board has not considered the offer by JAY ERNST, the current owner of the Curry property, made for the first time at the public hearing that the land is now available. The applicant proceeded with the instant application based upon what he thought was an inability to acquire adjacent land, after his inquiry. It would appear to be grossly unfair to this applicant to delay decision on the instant area variance

application in order that the applicant now seek to negotiate with the new owner of the Curry property who appears at the public hearing and indicates that the land is now available for sale. This Board does not wish to force an applicant into negotiations to acquire additional land so late in the application process since it would appear to give the adjacent landowner a negotiating advantage which is unwarranted, given applicant's prior unfruitful inquiry into purchasing additional lands.

14. It is the finding of this Board that the applicant has proceeded with his prior application to the Planning Board, and with this application, in good faith. It has applied for all permits or variances which were disclosed to him to be necessary. Had he been referred to the ZBA for the six are variances inherent in his 1986 site plan and special use permit application, he undoubtedly would have pursued that remedy at the time. The applicant now comes before this Board seeking to obtain the necessary variances for a site which he thought in good faith was fully approved in 1986 and which he now seeks to expand marginally by adding a somewhat higher building.

15. It is the finding of this Board that the applicant would suffer severe financial loss and functional loss if the existing deficiencies from the bulk regulations are not approved through the instant variance application. Going further, this marginal increase in the existing variances by the addition of the proposed building seems minimal given the slightly higher building which creates the need for the seemingly dramatic maximum building height variance.

16. The evidence presented by applicant substantiated the fact that the variances, if granted, would not have a negative impact on the physical or environmental conditions in the neighborhood since the zoning classification is C (commercial) and applicant's property has been utilized for used car sales and as a service repair garage for many years.

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor makes the following conclusions of law in this matter:

1. The requested variances will not produce an undersirable change in the character of the neighborhood or create a detriment to nearby properties.

2. There is no other feasible method available to applicant which can produce the benefit sought other than the variance procedure.

3. The requested variances are substantial in relation to the bulk regulations for lot area, lot width, front yard, side yard, total side yard, rear yard and building height. However, it is the conclusion of this Board that the granting of the requested substantial variances are warranted here because of the fact that applicant has a very small parcel located in a C zone which has been utilized for used car sales and as a service repair garage for many years. The granting of the requested substantial variances do not appear to create substantial adverse

impacts upon either the neighborhood (judging by the number of neighbors who held no opinion concerning the application) or the applicant.

4. The requested variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zoning district.

5. The difficulty the applicant faces in conforming to the bulk regulations is a self-created one. However, applicant applied to the Planning Board in 1986 for a site plan and special use permit approval. The Planning Board at that time granted such applications without considering the deficiencies from the bulk regulations which were inherent in the site plan since that was the then applicable policy of that Board. The policy of the Planning Board has now changed and the applicant is now in the process of applying for the variances which arose upon his prior application, as well as upon this application to construct an addition to his existing garage in a C zone.

6. It is the finding of this Board that the benefit to the applicant, if the requested variances are granted, outweighs the detriment to the health, safety and welfare of the neighborhood or community by such grant.

7. It is the further finding of this Board that the requested area variances are the minimum variances necessary and adequate to allow the applicant relief from the requirements of the bulk regulations and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

8. The interests of justice will be served by allowing the granting of the requested area variances.

NOW, THEREFORE, BE IT

RESOLVED, that the Zoning Board of Appeals of the Town of New Windsor GRANT (1) 22,288 s.f. lot area, (2) 100 ft. lot width, (3) 25 ft. front yard, (4) 29 ft. side yard, (5) 26 ft. total side yard, (6) 15 ft. rear yard, and (7) 19 ft. 8 in. maximum building height variances in order to permit the construction of an addition to the existing garage to be used as a muffler shop and service repair garage at the above location in a C zone as sought by applicant in accordance with plans filed with the Building Inspector and presented at the public hearing.

BE IT FURTHER,

RESOLVED, that the Secretary of the Zoning Board of Appeals of the Town of New Windsor transmit a copy of this decision to the Town Clerk, Town Planning Board and applicant.

Dated: March 22, 1993.

(ZBA DISK#10-031593.rb)

Chairman



TOWN OF NEW WINDSOR

555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

(914) 563-4630

Date: March 23, 1993
FAX: 914-563-4693

RE: ZONING BOARD OF APPEALS - APPLICATION # 92-45.

Dear ZBA Applicant:

After computation of the consulting fees that were posted with your application before the Zoning Board of Appeals, the Board found that there are additional fees due and owing in the amount of \$ 288.50. (A copy of the computation list is attached).

In order to obtain a copy of your formal decision, this amount will have to be paid immediately.

Please forward a check in the above amount and I will be happy to furnish an executed copy of the formal decision.

Very truly yours,

PATRICIA A. BARNHART, Secretary
Zoning Board of Appeals

/pab

Attachment

(ZBA DISK#7-031292.FEE)

3/26/93 \$ 288.50
100.00
\$ 188.50 balance

2/8/93 Public Hearing: Bernhardt, Robt.

Name:	Address:
Jay K. Ernst	2465 Palisade Ave Bx N.Y. 10463
Mary Brewer	Rt 94 Vails Gate po. Box 696
Russell McMillan	Rt 94 Vails Gate 12584
Beggy Keller	" " " "
H. C. Ernst	Rt 94 Vails Gate, N.Y. 12553



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TOWN OF NEW WINDSOR

555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

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January 13, 1993

Coleen & Robert Bernhardt
Rt. 94 PO Box 407
Vails Gate, NY 12584

Re: Tax Map Parcel: 69-4-9.1

Dear Mr. & Mrs. Bernhardt:

According to our records, the attached list of property owners are within five hundred (500) feet of the above referenced property.

The charge for this service is \$45.00, minus your deposit of \$25.00. Please remit the balance of \$20.00 to the Town Clerk's office.

Sincerely,

Leslie Cook (C)

Leslie Cook
SOLE ASSESSOR

LC/cad
Attachments
cc: Pat Barnhart

National Temple Hill Assoc. Inc.
Temple Hill Rd.
Vails Gate, NY 12584

Walsky, Harold & Duarte, Graciano B.
PO Box 8648
Woodcliff Lake, NJ 07675

Route 300 Associates
c/o John Yanaklis
550 Hamilton Ave.
Brooklyn, NY 11232

Bergknoff, Irwin
Route 32
Highland Mills, NY 10930

Ettinger, Howard W. & Sarah P.
Box 64
Vails Gate, NY 12584

V.G.R. Associates
c/o Howard V. Rosenblum
300 Martine Ave.
White Plains, NY 10601

Scheible, Frederick
PO Box 384
Vails Gate, NY 12584

Storage Equities Inc. & PS Partners Ltd.
Dept PT - NY24109-02
PO Box 25025
Glendale, CA 91201-5025

Twenty Dexter, Ltd.
614 Little Britain Rd.
New Windsor, NY 12553

West Point Tours
PO Box 125
Vails Gate, NY 12584

Boneri, Jean C.
Box 526
Vails Gate, NY 12584

Simonson, Richard & Helen
Box 485
Vails Gate, NY 12584

Brewer, Ella
Box 527
Vails Gate, NY 12584

Brewer, Wilbur & Mary E.
PO Box 610
Vails Gate, NY 12584

Ernst, Jerome & Pearl
5131 N. 40th St., Apt. A301
Phoenix, AZ 85018

Brewer, Walter
PO Box 293
Vails Gate, NY 12584

Mc Millen, Mary
PO Box 153
Vails Gate, NY 12584

Brewer, Russell A. Jr. & Ruth Ann
Route 94 Box 103
Vails Gate, NY 12584

Brewer, Helen & Ida Mae & Michael
PO Box 293
Vails Gate, NY 12584

Deyo, Beatrice & Hannah Marie & Lawrence Arthur Scherf
PO Box 293
Vails Gate, NY 12584

Central Hudson Gas & Electric Corp.
284 South Ave.
Poughkeepsie, NY 12601

Slepoy, Herbert & Gardner, Fred
104 South Central Ave.
Valley Stream, NY 11580

Date 21/10/95, 19.....

TOWN OF NEW WINDSOR

**TOWN HALL, 555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553**

TO Frances Roth 389 Moores Hill Rd DR.

New Windsor, ny 12553

DATE			CLAIMED		ALLOWED	
2/8/93		Zoning Board Meeting	75	00		
		Misc. 2				
		Kemper - 5				
		Morin - 15				
		Stichdale/Stewarts - 9				
		Slifstein - 4				
		Bernhardt - 12	211	50		
		<u>47</u>	333	50		

BERNHARDT, ROBERT

MR. NUGENT: Request for (1) 22,288 s.f. lot area, (2) 100 ft. lot width, (3) 25 ft. front yard, (4) 29 ft. side yard, (5) 26 ft. total side yard, (6) 15 ft. rear yard, and (7) 19 ft. 8 in. max. building height variances for muffler shop and service repair garage in a C zone.

Robert Bernhardt appeared before the board representing this proposal.

MR. BERNHARDT: We're putting on a 16 by 24 foot garage smaller than the size of this room to the existing garage. That is it.

MR. LUCIA: Thank you for dropping off a copy of your deed. I see that apparently title to the property is just in Colleen's name?

MR. BERNHARDT: No, it's joint.

MR. LUCIA: There must be a more recent deed than the one you dropped off.

MR. BERNHARDT: Just this weekend, it was in joint. We had it taken out seven years ago for a reason and we had it put together. Al Cavalari did it. I have a copy of it.

MR. LUCIA: Just drop it off. Did you have a title policy?

MR. BERNHARDT: No, there's no mortgage or title insurance. I think back in '72, somewhere, yeah.

MR. LUCIA: Typically, that turns out certain restrictions and covenants and easements and sort of things that everybody's property is subject to. If this board does grant you a variance, is there anything in the title to the property which would prevent you from doing what is it you propose to do on this property?

MR. BERNHARDT: I've read it, it just describes the

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property. That is all it does.

MR. LUCIA: Thank you.

MR. BERNHARDT: I gave you a copy of it, it's here.

MR. LUCIA: We didn't have the title policy but the deed.

MR. BERNHARDT: We've got a lot of opposition here tonight.

MR. LUCIA: You really need to lay out to the board why it is you are hear and why it is, what it is you want.

MR. BERNHARDT: Well, I was working on cars since 1986 when I was granted a special permit to work on cars. I was selling cars, I was working on cars until the recession came along and put me out of business for several other reasons, some of which became illegal and I had to diversify and this is the only other thing I can possibly find is to do muffler repair and do something that is more necessity. My special permit only entitles me to do service work on cars so this is how I'm trying to specialize only in that field. The addition I'm asking for I think is 400 square feet which is 16 by 24 pole barn, it's a pole barn is what it is with metal siding screwed to it, very similar. That is all it is.

MR. NUGENT: That is going to be attached directly to your existing garage?

MR. BERNHARDT: That is correct, absolutely, one will support the other.

MR. TORLEY: You need the height for the lifts?

MR. BERNHARDT: At first I asked for 16 foot then I found out through other investigation that really I can really get away with 13 foot. I didn't know that in the beginning so 13 or 16 foot, it doesn't make a difference. Most places that I have investigated recently I found out that they have 13 foot ceilings, a 16 foot ceiling is you know is something that I though

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is a--

MR. NUGENT: Luxury?

MR. BERNHARDT: I guess so.

MR. NUGENT: This is asking for 19 foot 8 inches, that is maximum height.

MR. BABCOCK: Yeah, that is the ceiling height that Bob is referring to is not the height of the building, it's the peak of the building.

MR. BERNHARDT: That is the 4 on 12 roof on top.

MR. TORLEY: This is based on 16 or 13 foot high ceiling?

MR. BABCOCK: It's based on a 20 foot high roof peak. Just for clarification, he's allowed a building because of the distance to the property line, he's allowed a building four inches high by the zoning code.

MR. LUCIA: You are applying for a variance total building height of 19 feet 8 inches, should you choose to put up something less than that is fine you can't go over that.

MR. BERNHARDT: I didn't know that, I just found this out over the weekend with continued investigation that a 16 foot ceiling is really not necessary.

MR. LUCIA: If that variance is granted anything under that is acceptable but since you're only allowed 6 inches, you'd need a variance for any building you put there you also might explain to the public that although you're looking for 7 separate variances, they are not all generated just by this new construction. Some of them are inherent from previously.

MR. BERNHARDT: I don't know if that has got you scared. I didn't even see the letter but most of the variances that I am asking for have nothing to do with this little building itself. It's measurements that make the property conform, is that true?

MR. LUCIA: The property was undersized and Bob got a special permit back in '85 to operate certain auto service on the site. Unfortunately, when they did that site plan, they didn't have the distances all shown on the plan and he didn't realize that he needed specific variances. So now what we're doing since he's coming in with this new application he's been cited for absolutely everything that is wrong with the property, both pre-existing and as a result of his new construction so we're trying to get everything before the board all in this one application but I didn't want you to when you looked at the 7 variances, it sounds like this is a dramatic change. And it's not such a dramatic change. I think Bob has indicated that this new building of 400 square feet everything else is pre-existing on the site, is that correct?

MR. BERNHARDT: Yes.

MR. NUGENT: In going over the minutes because I missed the second preliminary that we had with Bob, I read an article in there that you brought up and it said if he lays out on the record exactly what et cetera includes to this point in time and he wants to add to that a muffler shop, where did you et cetera from?

MR. LUCIA: Original Planning Board application and I think we have it in here referred to certain specific items and it then said et cetera and it's difficult for this board or anybody to look at that and say what it was that was approved so I think the easiest way now is just tell the board everything you contemplate doing there and we'll have it on the record and it will be a definite statement.

MR. BERNHARDT: Muffler and exhaust repair.

MR. BABCOCK: Service repair garage is what it comes under.

MR. BERNHARDT: Probably shocks and brakes that go with that, we're going to put a lift in this building, incidentally, I don't know if we mentioned that so it is just a hydraulic lift.

MR. NUGENT: Mike, then all these variances are predicated on a service repair garage?

MR. BABCOCK: Yes, sir and the new proposed addition the only variance that he is creating to my knowledge is the building height. The rest of the variances are required on the existing building. This is not getting any closer to any property lines than the existing building or developmental coverage or any of that stuff.

MR. LANGANKE: This really isn't a substantial variance request. We're just trying bring him in compliance?

MR. NUGENT: That is exactly right.

MR. BABCOCK: Basically, at the last time that he got his special permit, there's a very good chance that he should have come in at that time and got the other 6 variances which they weren't sought at that time and now what we're trying to do is clear up the whole map at one time. That is why it looks substantial.

MR. NUGENT: Planning Board gives special permits, not us. We used to but.

MR. LANGANKE: Is he going to need a sign?

MR. BABCOCK: There's an existing sign that is in compliance.

MR. LANGANKE: I don't have any questions.

MR. HOGAN: No questions.

MR. NUGENT: At this time, we'll open it up to the audience. Anybody wants to speak on this matter, please mention your name and address and try not to be repetitious.

RUSS MC MILLAN: I live in Vails Gate there, that driveway where we are right now and where we are is the last existing homestead down there. We've got children, we understand you want to build a garage.

Are you going to have access to that driveway?

BRENDA PETERSON: This is the existing driveway here, the entrance to where they live down in the valley I call them, they want to know are you going to be entering or coming out of there premises as far as their driveway?

MR. BERNHARDT: That is not my property. I negotiated but I didn't get it, oh, no, I didn't get it.

MS. PETERSON: What they are thinking you are extending up on your own premises, what they are thinking you're bringing it in this way on the other property that little--

MR. BERNHARDT: No, I don't even own that property no, I looked at it but it's not getable, he's not selling that. Virginia Curry sold that to a guy in Arizona.

MR. LUCIA: Are you opposed to Mr. Bernhardt's application?

MR. MC MILLAN: The way I was figuring it I thought that Mr. Bernhardt was buying the property of Virginia Curry. And he was going to put the building on Mrs. Curry's property here which is not big enough for a muffler shop to put there.

MR. BABCOCK: Do you know where his existing garage is now, where he did work, he's going to put an addition onto that garage and the access to 94 is going to be the same.

MR. BERNHARDT: The rest is all fenced out, that is all fenced out. I don't own anything else.

MR. MC MILLAN: And I was thinking if you were going to put a shop, there's kids going up and down the driveway on bikes and you have an existing garage, you have access to the driveway, you know what I mean with traffic.

MR. BERNHARDT: That is why I fenced it out because I didn't want any trouble you know what I am saying that

is all. If you haven't heard me in seven years I have been working back there, you're not to hear now.

MR. LUCIA: Do you have an opinion on Mr. Bernhardt's variance application? Are you opposed or in favor of it or you have no opinion?

MR. MC MILLAN: I'm not hurting the man, I'm in favor of it.

MR. BERNHARDT: They were curious. I didn't realize that. I didn't mention it to any of us, I didn't think it was anything.

MR. LUCIA: Mrs. Peterson, do you have an opinion on Mr. Bernhardt's application?

MRS. PETERSON: Doesn't matter to me.

MARY BREWER: Route 94, Vails Gate. You're talking muffler and putting new exhaust and stuff in there, right, I'm concerned about you are right directly behind me and it's not going, there's not going to be a lot of smoke and fumes and stuff like that.

MR. BERNHARDT: No, not from that, no. I'm only laughing because it's, do you know what the exhaust on a car is, it's the pipes underneath the car, this is all, bolt on accessories maybe some pipe ending but--

MR. BABCOCK: He's not going to be doing any spray painting or anything like that of cars right now. He has approval to do service repair right now. He's just putting in a higher building for a lift so that he can work underneath the cars.

MR. LUCIA: Mrs. Brewer, do you have an opinion on Mr. Bernhardt's application? Are you in favor of it, opposed to it or have any opinion on it?

MRS. BREWER: Doesn't matter to me.

JAY ERNST: I own that property that you mentioned.

MR. BERNHARDT: That is right on the side here. What

he is talking about West Point School Bus is all on this side, his property is right here.

MR. ERNST: I just want to clarify a point, the land is available if the gentleman is interested in purchasing it and it could be helpful to him, it's negotiable, okay. I want to raise a couple of questions and concerns about that property, the building of the muffler shop and how that may impact on the either use, potential use of the property that I have now or the marketability of that property. I was concerned about the use of that and how the refuse might be piled up on the outside, mufflers and things like that. I was concerned about the noise pollution and other pollution that may come from that shop and how it may impact on let's say even the sale of that property maybe combined with other properties, let's say to a medical center or a luncheonette and it might not be attractive in the future with a muffler shop there right next to that property. So these are some of the questions and concerns that I have about the variance for the muffler shop.

MR. LUCIA: Just to clarify what may not have been entirely clear when you got the legal notice from Bernhardt is not seeking a use variance, he has every legal right to put a service repair garage and a muffler shop there. All he's seeking is area variances what he doesn't have is a sufficiently large lot to put those uses there but you really don't have any objection to use he puts to the property because it's a legal use. How that may impact your sale of the property is certainly relevant to you as an owner but it's not an issue that is before this board. The only issue before this board is the size of the property. Now Bob, I think you said you investigated looking at this property next door?

MR. BERNHARDT: His.

MR. LUCIA: And weren't able to reach any agreement?

MR. BERNHARDT: It used to be his father's and I guess your pop just died a year or so ago and we negotiated but we couldn't come to a price.

MR. LUCIA: The reason that is relevant since Mr. Bernhardt is seeking area variances, theoretically if he could acquire additional lands, he might not need these area variances but at the time he presented this obviously he investigated and is coming here on the basis that he couldn't get any additional lands and therefore needs the area variances. You're saying maybe it is available. I think the board has to proceed with it based on the fact that Bob once tried and it wasn't then available. If you and he can come to some agreement in the future, that is a different case but we have to take it on its face value, I tried with the then owner, couldn't reach an agreement and he's here. Do you have an opinion on this area variance application?

MR. ERNST: Just the concerns that I mentioned. Other than that, I really don't.

MR. LUCIA: Since the use is permitted, he has to comply with outside storage and refuse but although you may not if in a perfect world like to be next to a muffler shop, if it is a permitted use, it's a permitted use.

MR. NUGENT: Any further comments from the audience?

FRANK SIGNORELLI: I reside at Route 94, Post Officer Box 153, Vails Gate. Proposed area variance that the lot is too small for that, where would your parking be?

MR. BERNHARDT: That is what I had to lay out to the Planning Board before I came here and I already passed that, that there's parking that I had to show for 11 cars including handicapped which are indicated see right here? Here's handicapped then 1, 2, 3, 4, 5, 6, it's all laid out. I had to do this before I came here. And this was passed by the Town Engineer, here's three, here's another.

MR. SIGNORELLI: These three are right alongside here?

MR. BERNHARDT: Right.

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MR. SIGNORELLI: Where are the other two?

MR. BERNHARDT: Alongside the garage and the back of the garage there's the school buses back here. So I just conformed to what they actually, what the Town Code recommended and I showed that.

MR. BABCOCK: He complies with the Town regulations for parking or else he'd be seeking a variance for that also.

MR. SIGNORELLI: So the main variance is that the lot is too small for what he is proposing to do?

MR. BABCOCK: Yeah, the variance that the new addition is creating is building height. By the Town Ordinance, he's allowed to put a building four inches high, he's asking to go 20 inches high, 20 feet, I'm sorry.

MR. SIGNORELLI: 20 feet higher than what your roof is now?

MR. BABCOCK: No, 20 feet total.

MR. BERNHARDT: Existing garage is 13 foot 2 inches now, I even mentioned that upon my investigation I don't even need 16 foot, I need 13 foot, which is slightly above the garage, existing garage itself.

MR. LUCIA: Mr. Signorelli, do you have an opinion on Mr. Bernhardt's application?

MR. SIGNORELLI: Well, I don't want to hurt Mr. Bernhardt but I would appeal against it because of the size of the lot limitations that is there, insufficient lot area, insufficient parking.

MR. LUCIA: Thank you.

MR. NUGENT: Any further comments from the audience? At this time, I'll close the public hearing and open it back up to the board for any further questions.

MR. LUCIA: Should this board grant you the variance you're seeking, do you feel that an undesirable change.

will be produced in the character of the neighborhood or detriment to nearby properties?

MR. BERNHARDT: Not at all.

MR. LUCIA: Is the benefit which you seek that is the variance you're seeking from this board achievable by some other method feasible for you to pursue other than that variance? Can you do this without getting variances?

MR. BERNHARDT: Absolutely not.

MR. LUCIA: Are the variances you're seeking substantial that is in terms of numbers? You're looking for 22,288 square foot lot area variance. I think all by itself is pretty substantial in terms of numbers. The basic problem is that you have a very small lot in a C zone. Is that substantially the gist of why you are here?

MR. BERNHARDT: Well, that is right to seek a variance to make it possible.

MR. LUCIA: Will the proposed variance have an adverse affect or impact on physical or environmental issues in the neighborhood?

MR. BERNHARDT: Absolutely not.

MR. LUCIA: Did you create this difficulty yourself?

MR. BERNHARDT: I'm confused.

MR. LUCIA: That goes to whether or not the condition that you are seeking relief from was of your own doing. Now I guess when you applied for the special permit in '86 to the Planning Board, it was a self-created hardship but they granted you that permit. They apparently just didn't realize that you needed all these variances when they gave you the permit so I guess you did create the problem but you did at that time what you thought was necessary to get it approved and you are now seeking to correct that by dotting all the i's and crossing the t's.

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MR. BERNHARDT: That is correct.

MR. LUCIA: Thank you.

MR. NUGENT: Any further questions? I'll entertain a motion.

MR. TANNER: I make a motion we grant the variance.

MR. LANGANKE: I second it.

ROLL CALL

MR. HOGAN	AYE
MR. TORLEY	AYE
MR. LANGANKE	AYE
MR. TANNER	AYE
MR. NUGENT	AYE

February 8, 1993

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FORMAL DECISIONS: LEDWITH/BAKER
WALSH

MR. TANNER: I make a motion we accept both formal decisions.

MR. TORLEY: I'll second it.

ROLL CALL

MR. HOGAN	AYE
MR. TORLEY	AYE
MR. LANGANKE	AYE
MR. TANNER	AYE
MR. NUGENT	AYE

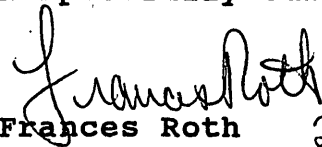
MR. TORLEY: I make a motion we adjourn the meeting.

MR. TANNER: I'll second it.

ROLL CALL

MR. HOGAN	AYE
MR. TORLEY	AYE
MR. LANGANKE	AYE
MR. TANNER	AYE
MR. NUGENT	AYE

Respectfully Submitted By:


Frances Roth
Stenographer 2/10/93

OFFICE OF THE PLANNING BOARD - TOWN OF WINDSOR
ORANGE COUNTY, NY

NOTICE OF DISAPPROVAL OF SITE PLAN OR SUBDIVISION APPLICATION

PLANNING BOARD FILE NUMBER: _____

DATE: 13 NOV 1992

APPLICANT: ROBERT BERNHARDT

REVISED 30 NOV, 1992

P.D. BDX 407

VAIRS GATE N.Y. 12584

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATED 11 SEPT 1992

FOR (~~SUBDIVISION~~ - SITE PLAN) _____

LOCATED AT RT 94

ZONE "C"

DESCRIPTION OF EXISTING SITE: SEC: 69 BLOCK: 4 LOT: 9.1

IS DISAPPROVED ON THE FOLLOWING GROUNDS: PROPOSED MUFFLER SHOP
(SERVICE REPAIR GARAGE) REQUIRES BULK AREA VARIANCES AS
NOTED BELOW.

*Table of Bulk Regs.
Use Bulk Regs.
Cols. C, D, E, F, G, I*

[Signature]

PLANNING BOARD CHAIRMAN
MARK J. EDGALL FOR JAMES PETRO

REQUIREMENTS		PROPOSED OR AVAILABLE *	VARIANCE REQUEST
ZONE <u>C</u>	USE <u>B-5</u>	NET 17 712 SF	NET 22,288
MIN. LOT AREA	<u>40 000 SF</u>	<u>19 317 SF</u>	<u>20 683 SF</u>
MIN. LOT WIDTH	<u>200 FT</u>	<u>100 FT</u>	<u>100 FT</u>
REQ'D FRONT YD	<u>60 FT</u>	<u>35 FT</u>	<u>25 FT</u>
REQ'D SIDE YD.	<u>30 FT</u>	<u>1 FT</u>	<u>29 FT</u>
REQ'D TOTAL SIDE YD.	<u>70 FT</u>	<u>44 FT</u>	<u>26 FT</u>

VALE GATE N.Y. 12584

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATED 11 SEPT 1992

FOR (~~SUBDIVISION~~ - SITE PLAN) _____

LOCATED AT RT 94

ZONE "C"

DESCRIPTION OF EXISTING SITE: SEC: 69 BLOCK: 4 LOT: 9.1

IS DISAPPROVED ON THE FOLLOWING GROUNDS: PROPOSED MUFFLER SHOP
(SERVICE REPAIR GARAGE) REQUIRES BULK AREA VARIANCES AS
NOTED BELOW.

*Table of Bulk Regs.
Use Bulk Regs.
Cols. C, D, E, F, G, I*

[Signature]

PLANNING BOARD CHAIRMAN
MARK J. EDALL FOR JAMES PETRO

REQUIREMENTS		PROPOSED OR AVAILABLE *	VARIANCE REQUEST
ZONE <u>C</u>	USE <u>B-5</u>	NET 17 712 SF	NET 22,288
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REQ'D TOTAL SIDE YD.	<u>70 FT</u>	<u>44 FT</u>	<u>26 FT</u>
REQ'D REAR YD.	<u>30 FT</u>	<u>15 FT</u>	<u>15 FT</u>
REQ'D FRONTAGE	<u>NA</u>	<u>NA</u>	<u>—</u>
MAX. BLDG. HT.	<u>4" Max = 4"</u>	<u>20 FT</u>	<u>19'-8"</u>
FLOOR AREA RATIO	<u>0.50</u>	<u>0.08</u>	<u>—</u>
MIN. LIVABLE AREA	<u>NA</u>	<u>NA</u>	<u>—</u>
DEV. COVERAGE	<u>NA %</u>	<u>NA %</u>	<u>— %</u>
O/S PARKING SPACES	<u>11</u>	<u>11</u>	<u>—</u>

APPLICANT IS TO PLEASE CONTACT THE ZONING BOARD SECRETARY AT:
(~~914-565-8556~~), TO MAKE AN APPOINTMENT WITH THE ZONING BOARD
OF APPEALS: 914-565-4630

* VALUES PER APPLICANT'S PLAN

CC: Z.B.A., APPLICANT, P.B. ENGINEER, P.B. FILE

**RETAKE
OF
PREVIOUS
DOCUMENT**

MAILS GATE N.Y. 12584


PLEASE TAKE NOTICE THAT YOUR APPLICATION DATED 11 SEPT 1992
FOR (~~SUBDIVISION~~ - SITE PLAN)
LOCATED AT RT 94

ZONE "C"

DESCRIPTION OF EXISTING SITE: SEC: 69 BLOCK: 4 LOT: 9.1

IS DISAPPROVED ON THE FOLLOWING GROUNDS: PROPOSED MUFFLER SHOP
(SERVICE REPAIR GARAGE) REQUIRES BULK AREA VARIANCES AS
NOTED BELOW.

Table of Bulk Regs.
Use Bulk Regs.
Cols. C, D, E, F, G, I


PLANNING BOARD CHAIRMAN
MARK J. EDGALL FOR JAMES PETRO

REQUIREMENTS		PROPOSED OR AVAILABLE *	VARIANCE REQUEST
ZONE <u>C</u>	USE <u>B-5</u>	NET 17 712 SF	NET 22,288
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MAX. BLDG. HT.	<u>4' max = 4'</u>	<u>20 FT</u>	<u>19'-8"</u>
FLOOR AREA RATIO	<u>0.50</u>	<u>0.08</u>	<u>—</u>
MIN. LIVABLE AREA	<u>NA</u>	<u>NA</u>	<u>—</u>
DEV. COVERAGE	<u>NA</u> %	<u>NA</u> %	<u>—</u> %
O/S PARKING SPACES	<u>11</u>	<u>11</u>	<u>—</u>

APPLICANT IS TO PLEASE CONTACT THE ZONING BOARD SECRETARY AT:
(~~914-565-8550~~), TO MAKE AN APPOINTMENT WITH THE ZONING BOARD
OF APPEALS: ~~914-565-8550~~ 914-4630 * VALUES PER APPLICANT'S PLAN

CC: Z.B.A., APPLICANT, P.B. ENGINEER, P.B. FILE

or formerly
 TERMINAL CORP
 3ER 1784
 GE 789

EASEMENT
 $\begin{array}{r} 107 \\ 15 \\ \hline 535 \\ 107 \\ \hline 1505 \end{array}$
 $\begin{array}{r} 19317 \\ - 1605 \\ \hline 17712 \end{array}$
 $\begin{array}{r} 40000 \\ 17712 \\ \hline 22288 \end{array}$

S 1° 58' 25" E - 375.00'

LAND TO BE CONVEYED TO

GARY AND COLEEN SMITH

AREA = 19,317 SQ. FT. = 0.443 ACRES

TEMPORARY WORK EASEMENT

$\begin{array}{c} 105' \pm \\ 107' \pm \end{array}$ 15' 15'

N 1° 58' 25" W - 162.46'

now or formerly
 VIRGINIA CURRY
 LIBER 1088
 PAGE 423

now or formerly
 WILBUR BREWER
 LIBER 1088
 PAGE 416

S 88° 01' 35" W
 85.55'

1. ROD

LAND TO BE RETAINED BY

CONCETTA BONERI

AREA = 18,183 SQ. FT.
 = 0.417 ACRES

1. ROD

S 1° 58' 25" E - 212.54'

now or formerly
 RICHARD AND HELEN SIMONSON
 LIBER 1274, PAGE 395

N 1° 58' 25" W - 212.54'

3.0'

GAR.

MAC.
 DRIVE

HOUSE

PORCH

85.55'

N 88° 01' 35" E

BDY.

1. PIPE

S 88° 01' 35" W

14.45'

1. ROD

ROUTE # 94

BDY.



McGOEY, HAUSER and EDSALL
CONSULTING ENGINEERS P.C.

RICHARD D. McGOEY, P.E.
WILLIAM J. HAUSER, P.E.
MARK J. EDSALL, P.E.

TOWN OF NEW WINDSOR
PLANNING BOARD
REVIEW COMMENTS

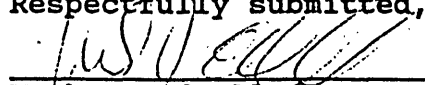
PROJECT NAME: BERNHARDT MUFFLER REPAIR SITE PLAN
PROJECT LOCATION: NYS ROUTE 94
SECTION 69-BLOCK 4-LOT 9.1
PROJECT NUMBER: 92-36
DATE: 24 FEBRUARY 1993
DESCRIPTION: THE APPLICATION INVOLVES AN ADDITION TO AN
EXISTING GARAGE ON THE SITE, AS WELL AS A CHANGE
IN USE FROM THE PREVIOUS APPROVAL GRANTED. THE
APPLICATION WAS PREVIOUSLY DISCUSSED AT THE
26 AUGUST 1992 PLANNING BOARD MEETING, AND
REVIEWED AT THE 14 OCTOBER 1992 PLANNING BOARD
MEETING, AT WHICH TIME IT WAS REFERRED TO THE
ZONING BOARD OF APPEALS.

1. This application required numerous variances from the Zoning Board of Appeals. It is my recommendation that a copy of the decision of the ZBA be reviewed by the Planning Board Attorney, such that the plan considered for approval by the Planning Board conforms with the ZBA decision.

The Applicant should also delineate all variances granted on the final plan submitted to the Planning Board for approval.

2. The Planning Board may wish to assume the position of Lead Agency under the SEQRA process.
3. The Planning Board should determine, for the record, if a Public Hearing will be necessary for this Site Plan, per its discretionary judgement under Paragraph 48-19.C of the Town Zoning Local Law.
4. Submittal of this plan/application to the New York State Department of Transportation and Orange County Department of Public Works will be required.
5. At such time that the Planning Board has made further review of this application, further engineering reviews and comments will be made, as deemed necessary by the Board.

Respectfully submitted,


Mark J. Edsall, P.E.
Planning Board Engineer
MJEmk

- ZBA file*
- ☐ Main Office
45 Quassaick Ave. (Route 9W)
New Windsor, New York 12553
(914) 562-8640
 - ☐ Branch Office
400 Broad Street
Milford, Pennsylvania 18337
(717) 296-2765

MIRA-563-4615
PAT 563-4630
PAUL 567-0063

CONSULT YOUR LAWYER BEFORE SIGNING THIS INSTRUMENT - THIS INSTRUMENT SHOULD BE USED BY LAWYERS ONLY

THIS INDENTURE, made the 5 day of February, nineteen hundred and ninety-three
BETWEEN COLEEN J. BERNHARDT, residing at no number NYS Route 94,
PO Box 407, Vails Gate, NY 12584

party of the first part, and COLEEN J. BERNHARDT and ROBERT G. BERNHARDT,
residing at no number, NYS Route 94, PO Box 407,
Vails Gate, NY 12584, as tenants by the
entirety

party of the second part,

WITNESSETH, that the party of the first part, in consideration of

-----TEN AND NO/100 (\$10.00)----- dollars,

lawful money of the United States,

paid

by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or
successors and assigns of the party of the second part forever,

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate,

lying and being in the Town of New Windsor, Orange County, New York

AS PER DESCRIPTION ATTACHED HERETO

69-4-9.1

COPY

SCHEDULE A

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Town of New Windsor, Orange County, New York, bounded and described as follows:

BEGINNING at an iron pin in the southerly highway lane of Route 94, said point being the division line between Concetta Boneri and Academy Terminal Corp. also being the northwest corner of the herein described parcel; thence south 1 degree 58 minutes 25 second East 375.00 feet to an iron pin; thence North 88 degrees 01 minutes 35 seconds East 100.00 feet to an iron pin; thence North 1 degree 58 minutes 25 seconds West 162.46 feet to an iron pin; thence South 88 degrees 01 minutes 35 seconds West 85.55 feet to an iron pin; thence North 1 degree 58 minutes 25 seconds West 212.54 feet to an iron pin; in a southerly highway line of Route 94; thence South 88 degrees 01 minutes 35 seconds West along the southerly highway line of said road, 14.45 feet to the point of beginning, containing 19,317 square feet.

BEING the southerly part of property owned by Concetta Boneri.

BEING a portion of the premises conveyed by Joseph Basile to Concetta Boneri by deed dated February 8, 1962 and recorded in the Orange County Clerk's Office on February 13, 1962 in Liber 1610 of Deeds at Page 768.

This parcel is defined as Section 69, Block 4, Lot in the Orange County Tax Department.

BEING the same premises described in a deed dated October 17, 1974 made by Gary Smith and Coleen Smith, to Coleen Smith and recorded in the Orange County Clerk's Office on October 24, 1974 in Liber 1992 of Deeds at Page 883. Said Coleen Smith is now known as Coleen J. Bernhardt.

BEING AND INTENDED to be the same premises described in deed dated December 4, 1986 Robert G. Bernhardt and Coleen J. Bernhardt to Coleen J. Bernhardt recorded in Orange County Clerks Office on December 31st, 1986 in Liber 2635 of deeds at page 290.

TOGETHER with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof,

TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to said premises,

TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

AND the party of the first part covenants that the party of the first part has not done or suffered anything whereby the said premises have been incumbered in any way whatever, except as aforesaid.

AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.

IN PRESENCE OF:



... of the party, or the second part forever.

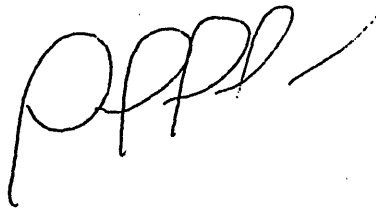
AND the party of the first part covenants that the party of the first part has not done or suffered anything whereby the said premises have been incumbered in any way whatever, except as aforesaid.

AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.

IN PRESENCE OF:



Coleen J. Bernhardt
COLEEN J. BERNHARDT

STATE OF NEW YORK, COUNTY OF ORANGE

SS:

On the 5 day of February 1993, before me personally came

COLEEN J. BERNHARDT

to me known to be the individual described in and who executed the foregoing instrument, and acknowledged that she executed the same.

Notary Public

ALFRED F. CAVACARI
Notary Public in the State of New York
Residing in and for Orange County
Commission Expires Oct. 30, 1993

STATE OF NEW YORK, COUNTY OF

SS:

On the day of 19, before me personally came

to me known, who, being by me duly sworn, did depose and say that he resides at No.

that he is the of

, the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation, and that he signed his name thereto by like order.

STATE OF NEW YORK, COUNTY OF

SS:

On the day of 19, before me personally came

to me known to be the individual described in and who executed the foregoing instrument, and acknowledged that executed the same.

STATE OF NEW YORK, COUNTY OF

SS:

On the day of 19, before me personally came

the subscribing witness to the foregoing instrument, with whom I am personally acquainted, who, being by me duly sworn, did depose and say that he resides at No.

that he knows

to be the individual described in and who executed the foregoing instrument; that he, said subscribing witness, was present and saw execute the same; and that he, said witness, at the same time subscribed his name as witness thereto.

Bargain and Sale Deed
WITH COVENANT AGAINST GRANTOR'S ACTS

TITLE NO.

SECTION

BLOCK

LOT

COUNTY OR TOWN

TO

RETURN BY MAIL TO:

Zip No.

Notary Public

ALFRED F. CAVACARI
Notary Public in the State of New York
Residing in and for Orange County
Commission Expires Oct. 30, 1993

STATE OF NEW YORK, COUNTY OF

ss:

On the day of 19 , before me
personally came
to me known, who, being by me duly sworn, did depose and
say that he resides at No. ;

that he is the
of ;

the corporation described
in and which executed the foregoing instrument; that he
knows the seal of said corporation; that the seal affixed
to said instrument is such corporate seal; that it was so
affixed by order of the board of directors of said corpora-
tion, and that he signed his name thereto by like order.

STATE OF NEW YORK, COUNTY OF

ss:

On the day of 19 , before me
personally came
the subscribing witness to the foregoing instrument, with
whom I am personally acquainted, who, being by me duly
sworn, did depose and say that he resides at No. ;

that he knows

to be the individual
described in and who executed the foregoing instrument;
that he, said subscribing witness, was present and saw
execute the same; and that he, said witness,
at the same time subscribed his name as witness thereto.

Bargain and Sale Deed
WITH COVENANT AGAINST GRANTOR'S ACTS

TITLE No.

SECTION

BLOCK

LOT

COUNTY OR TOWN

TO

RETURN BY MAIL TO:

Zip No.

Reserve this space for use of Recording Office.

ZONING BOARD OF APPEALS : TOWN OF NEW WINDSOR
COUNTY OF ORANGE : STATE OF NEW YORK

In the Matter of Application for Variance of

Robert & Colleen Bernhardt

Applicant.

AFFIDAVIT OF
SERVICE
BY MAIL

#92-45.

STATE OF NEW YORK)
) SS.:
COUNTY OF ORANGE)

PATRICIA A. BARNHART, being duly sworn, deposes and says:

That I am not a party to the action, am over 18 years of age and reside at 7 Franklin Avenue, New Windsor, N. Y. 12553.

On January 22, 1993, I compared the 22 addressed envelopes containing the attached Notice of Public Hearing with the certified list provided by the Assessor regarding the above application for variance and I find that the addressees are identical to the list received. I then mailed the envelopes in a U. S. Depository within the Town of New Windsor.

Patricia A. Barnhart
Patricia A. Barnhart

Sworn to before me this
22nd day of January, 1993.

Rebecca Allen
Notary Public

DEBORAH GREEN
Notary Public, State of New York
Qualified in Orange County
4984065
Commission Expires July 15, 1993

(TA DOCDISK#7-030586.AOS)

Pls. publish immediately. Send bill to: P.O. Box 407, Vails Gate, N.Y. 12584.

PUBLIC NOTICE OF HEARING BEFORE
ZONING BOARD OF APPEALS
TOWN OF NEW WINDSOR

PLEASE TAKE NOTICE that the Zoning Board of Appeals
of the TOWN OF NEW WINDSOR, New York will hold a
Public Hearing pursuant to Section 48-34A of the
Zoning Local Law on the following proposition:

Appeal No. 45

Request of Robert & Coleen Bernhardt

for a VARIANCE of

the regulations of the Zoning Local Law to

permit construction of muffler shop & service repair
garage with insufficient lot area, lot width, front yard,
side yard, rear yard & building hgt.,

being a VARIANCE of

Section 48-12-Table of Use/Bulk Regs. - Cols. C, D, E, F, G & I.

for property situated as follows:

Route 94 adjacent to West Point Tours,
Vails Gate, New Windsor, N.Y. known &
designated as tax map Sec. 69-B1k.4-Lot 9.1.

SAID HEARING will take place on the 8th day of

February, 1993, at the New Windsor Town Hall,

555 Union Avenue, New Windsor, N. Y. beginning at

7:30 o'clock P. M.

James Nugent
Chairman

By: Patricia A. Barnhart, Secy.

APPLICATION FOR VARIANCE

Date: 1-15-93

I. ✓ Applicant Information:

(a) ROBERT E. COLLIER BERNHART VAILS GATE NY RT 94 Box 407
(Name, address and phone of Applicant) (Owner) 12584

(b) _____
(Name, address and phone of purchaser or lessee)

(c) _____
(Name, address and phone of attorney) STEWART Airport

(d) PAUL CUOMO 2005 D ST. Bldg # 704 New Windsor NY
(Name, address and phone of contractor/engineer/architect) 12553

<input checked="" type="checkbox"/> Use Variance	<input type="checkbox"/> Sign Variance
<input checked="" type="checkbox"/> Area Variance	<input type="checkbox"/> Interpretation

III. ✓ Property Information: Box 407

(a) C RT 94 Vails Gate NY 12584 69-4-9.1 19,317
(Zone) (Address) (S B L) (Lot size)

(b) What other zones lie within 500 ft.? NONE OTHER

(c) Is a pending sale or lease subject to ZBA approval of this application? No

(d) When was property purchased by present owner? 1972

(e) Has property been subdivided previously? No

(f) Has property been subject of variance previously? No
If so, when? N/A

(g) Has an Order to Remedy Violation been issued against the property by the Building/Zoning Inspector? No

(h) Is there any outside storage at the property now or is any proposed? Describe in detail: No

(a) Use Variance requested from New Windsor Zoning Local Law,
Section _____, Table of _____ Regs., Col. _____,
to allow:
(Describe proposal)

~~N/A~~ (b) The legal standard for a "use" variance is unnecessary hardship. Describe why you feel unnecessary hardship will result unless the use variance is granted. Also set forth any efforts you have made to alleviate the hardship other than this application.

V. ✓ Area variance:

(a) Area variance requested from New Windsor Zoning Local Law, Section 48-12, Table of Use Bulk Regs., Col. C, D, E, F, G & I.

Requirements	Proposed or Available	Variance Request
Min. Lot Area <u>40,000 SF</u>	<u>17,712 SF</u>	<u>22,288 SF</u>
Min. Lot Width <u>200 FT</u>	<u>100 FT</u>	<u>100 FT</u>
Reqd. Front Yd. <u>60 FT</u>	<u>35 FT</u>	<u>25 FT</u>
Reqd. Side Yd. <u>30 FT</u>	<u>1 FT</u>	<u>29 FT</u>
Total side yard <u>70 ft.</u>	<u>44 ft.</u>	<u>26 ft.</u>
Reqd. Rear Yd. <u>30 FT</u>	<u>15 FT</u>	<u>15 FT</u>
Reqd. Street Frontage* <u>NA</u>	<u>NA</u>	<u>—</u>
Max. Bldg. Hgt. <u>4" PER FT 4"</u>	<u>20 FT</u>	<u>19'-8"</u>
Min. Floor Area* <u>0.50</u>	<u>0.08</u>	<u>—</u>
Dev. Coverage* <u>NA</u> %	<u>NA</u> %	<u>—</u> %
Floor Area Ratio** <u>—</u>	<u>—</u>	<u>—</u>
Parking Area <u>11</u>	<u>11</u>	<u>—</u>

* Residential Districts only

** No-residential districts only

✓ (b) The legal standard for an "area" variance is practical difficulty. Describe why you feel practical difficulty will result unless the area variance is granted. Also set forth any efforts you may have made to alleviate the difficulty other than this application.

NYS LAWS AND THE RECESSION HAVE DROVE ME OUT OF BUSINESS WAXING CARS WINDOW TINTING AND COATING CARS. WHAT I NEED TO MAKE A LIVING NOW IS SOMETHING OF NECESSITY LIKE A MUFFLER REPAIR

VI. Sign Variance: N/A

(a) Variance requested from New Windsor Zoning Local Law, Section _____, Table of _____ Regs., Col. _____.

	Requirements	Proposed or Available	Variance Request
Sign 1	_____	_____	_____
Sign 2	_____	_____	_____
Sign 3	_____	_____	_____
Sign 4	_____	_____	_____

(b) ^{N/A} Describe in detail the sign(s) for which you seek a variance, and set forth your reasons for requiring extra or over size signs.

(c) ^{N/A} What is total area in square feet of all signs on premises including signs on windows, face of building, and free-standing signs?

VII. Interpretation. ^{N/A}

(a) Interpretation requested of New Windsor Zoning Local Law, Section _____, Table of _____ Regs., Col. _____.

(b) Describe in detail the proposal before the Board:

✓ VIII. Additional comments:

(a) Describe any conditions or safeguards you offer to ensure that the quality of the zone and neighboring zones is maintained or upgraded and that the intent and spirit of the New Windsor Zoning is fostered. (Trees, landscaping, curbs, lighting, paving, fencing, screening, sign limitations, utilities, drainage.)

OUR PROPERTY IS KEPT SPOTLESS, LANDSCAPED WITH AS MUCH GRASS & SHRUBS, 10,000 SQ FT PAVED, LITE FROM ALL DIRECTIONS ON WEST POINT TOURS, ALSO ALL THREE SIDES FENCED IN BY WEST POINT TOURS BUS DRAINAGE IS 20% DECLINE INTO BUS CO. UTILITIES ARE SPLIT UNDERGROUND FROM HOUSE.

✓ IX. Attachments required:

- ☒ Copy of referral from Bldg./Zoning Insp. or Planning Bd.
- ☒ Copy of tax map showing adjacent properties.
- ☒ ^{N/A} Copy of contract of sale, lease or franchise agreement.
- ☒ Copy of deed and title policy.
- ☒ Copy(ies) of site plan or survey showing the size and location of the lot, the location of all buildings, facilities, utilities, access drives, parking areas, trees, landscaping, fencing, screening, signs, curbs, paving and streets within 200 ft. of the lot in question.
- ☒ ^{N/A} Copy(ies) of sign(s) with dimensions and location.
- ☒ Two (2) checks, one in the amount of \$ 150.00 and the second check in the amount of \$ 250.00, each payable to the TOWN OF NEW WINDSOR.
- ☒ Photographs of existing premises from several angles.

X. Affidavit.

Date: 1-15-93

STATE OF NEW YORK)
) SS.:
COUNTY OF ORANGE)

The undersigned applicant, being duly sworn, deposes and states that the information, statements and representations contained in this application are true and accurate to the best of his/her knowledge or to the best of his/or information and belief. The applicant further understands and agrees that the Zoning Board of Appeals may take action to rescind any variance granted if the conditions or situation presented herein are materially changed.

X Robert R. Cook
(Applicant)

Sworn to before me this

19th day of January, 1993.

Patricia A. Bunker

XI. ZBA Action:

PATRICIA A. BARNHART
Notary Public, State of New York
No. 01BA4904434
Qualified in Orange County
Commission Expires August 31, 1993

(a) Public Hearing date: _____

(b) Variance: Granted () Denied ()

(c) Restrictions or conditions:

NOTE: A FORMAL DECISION WILL FOLLOW UPON RECEIPT OF THE PUBLIC HEARING MINUTES WHICH WILL BE ADOPTED BY RESOLUTION OF ZONING BOARD OF APPEALS AT A LATER DATE.

(ZBA DISK#7-080991.AP)

CONSULT YOUR LAWYER BEFORE SIGNING THIS INSTRUMENT - THIS INSTRUMENT SHOULD BE USED BY LAWYERS ONLY

THIS INDENTURE, made the 7 day of December, nineteen hundred and eighty-six.
 BETWEEN ROBERT G. BERNHARDT AND COLEEN J. BERNHARDT, residing at no number
 NYS Route 94, PO Box 407, Vails Gate, Town of New Windsor, Orange County, NY,

part of the first part, and COLEEN J. BERNHARDT, residing at no number NYS Route 94,
 PO Box 407, Vails Gate, Town of New Windsor, Orange County, NY,

party of the second part,

WITNESSETH, that the party of the first part, in consideration of

Ten (\$10.00) ----- dollars,

lawful money of the United States,

paid

by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or
 successors and assigns of the party of the second part forever,

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate,

lying and being in the Town of New Windsor, Orange County, New York, bounded and described
 as follows:

BEGINNING at an iron pin in the southerly highway
 lane of Route 94, said point being the division line between Concetta Boneri and
 Academy Terminal Corp. also being the northwest corner of the herein described
 parcel; thence south 1 degree 58 minutes 25 second East 375.00 feet to an iron pin;
 thence North 88 degrees 01 minutes 35 seconds East 100.00 feet to an iron pin;
 thence North 1 degree 58 minutes 25 seconds West 162.46 feet to an iron pin; thence
 South 88 degrees 01 minutes 35 seconds West 85.55 feet to an iron pin; thence
 North 1 degree 58 minutes 25 seconds West 212.54 feet to an iron pin; in a southerly
 highway line of Route 94; thence South 88 degrees 01 minutes 35 seconds West along
 the southerly highway line of said road, 14.45 feet to the point of beginning,
 containing 19,317 square feet.

BEING the southerly part of property owned by
 Concetta Boneri.

BEING a portion of the premises conveyed by Joseph
 Basile to Concetta Boneri by deed dated February 8, 1962 and recorded in the
 Orange County Clerk's Office on February 13, 1962 in Liber 1610 of Deeds at Page
 768.

This parcel is defined as Section 69, Block 4, Lot 9
 in the Orange County Tax Department.

BEING the same premises described in a deed
 dated October 17, 1974 made by Gary Smith and Coleen Smith, to Coleen Smith and
 recorded in the Orange County Clerk's Office on October 24, 1974 in Liber 1992 of
 Deeds at Page 883. Said Coleen Smith is now known as Coleen J. Bernhardt.

069156

69-4-9.1

69-4-9.1

party of the first part, and COLEEN J. BERNHARDT, residing at no number NYS Route 94,
PO Box 407, Vails Gate, Town of New Windsor, Orange County, NY,

party of the second part,

WITNESSETH, that the party of the first part, in consideration of

Ten (\$10.00) ----- dollars,

lawful money of the United States,

paid

by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or
successors and assigns of the party of the second part forever,

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate,

lying and being in the Town of New Windsor, Orange County, New York, bounded and described
as follows:

BEGINNING at an iron pin in the southerly highway
lane of Route 94, said point being the division line between Concetta Boneri and
Academy Terminal Corp. also being the northwest corner of the herein described
parcel; thence south 1 degree 58 minutes 25 second East 375.00 feet to an iron pin;
thence North 88 degrees 01 minutes 35 seconds East 100.00 feet to an iron pin;
thence North 1 degree 58 minutes 25 seconds West 162.46 feet to an iron pin; thence
South 88 degrees 01 minutes 35 seconds West 85.55 feet to an iron pin; thence
North 1 degree 58 minutes 25 seconds West 212.54 feet to an iron pin; in a southerly
highway line of Route 94; thence South 88 degrees 01 minutes 35 seconds West along
the southerly highway line of said road, 14.45 feet to the point of beginning,
containing 19,317 square feet.

BEING the southerly part of property owned by
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BEING a portion of the premises conveyed by Joseph
Basile to Concetta Boneri by deed dated February 8, 1962 and recorded in the
Orange County Clerk's Office on February 13, 1962 in Liber 1610 of Deeds at Page
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BEING the same premises described in a deed
dated October 17, 1974 made by Gary Smith and Coleen Smith, to Coleen Smith and
recorded in the Orange County Clerk's Office on October 24, 1974 in Liber 1992 of
Deeds at Page 883. Said Coleen Smith is now known as Coleen J. Bernhardt.

TOGETHER with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof,

TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to said premises,

TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

AND the party of the first part covenants that the party of the first part has not done or suffered anything whereby the said premises have been incumbered in any way whatever, except as aforesaid.

AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.

IN PRESENCE OF:

Robert C. Bernhardt

said premises,

TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

AND the party of the first part covenants that the party of the first part has not done or suffered anything whereby the said premises have been incumbered in any way whatever, except as aforesaid.

AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.

IN PRESENCE OF:

Robert C. Bernhardt

Coleen J. Bernhardt

STATE OF NEW YORK, COUNTY OF Orange ss:

On the day of December 19 86, before me personally came

Robert G. Bernhardt

to me known to be the individual described in and who executed the foregoing instrument, and acknowledged that he executed the same.

WARREN GREHER
Notary Public, State of New York
No. 4625563
Qualified in Orange County
My Commission Expires 9-30-88

STATE OF NEW YORK, COUNTY OF ss:

On the day of 19, before me personally came to me known, who, being by me duly sworn, did depose and say that he resides at No.

that he is the of

, the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation, and that he signed his name thereto by like order.

STATE OF NEW YORK, COUNTY OF Orange ss:

On the day of December 1986, before me personally came

Coleen J. Bernhardt

to me known to be the individual described in and who executed the foregoing instrument, and acknowledged that she executed the same.

WARREN GREHER
Notary Public, State of New York
No. 4625563
Qualified in Orange County
My Commission Expires 9-30-88

STATE OF NEW YORK, COUNTY OF ss:

On the day of 19, before me personally came

the subscribing witness to the foregoing instrument, with whom I am personally acquainted, who, being by me duly sworn, did depose and say that he resides at No.

that he knows

to be the individual described in and who executed the foregoing instrument; that he, said subscribing witness, was present and saw execute the same; and that he, said witness, at the same time subscribed his name as witness thereto.

Bargain and Sale Deed
WITH COVENANT AGAINST GRANTOR'S ACTS

Title No.

SECTION 69
BLOCK 4
LOT 9.1.1
COUNTY OR TOWN

167113

BERNHARDT

TO

BERNHARDT

RETURN BY MAIL TO:

Feinman, Greher & Kave, P.C.
532 Blooming Grove Turnpike
Newburgh, NY 12550
Zip No.

47-35
6-26
7-6
Murphy

WARREN GREHER
Notary Public, State of New York
No. 4625563
Qualified in Orange County
My Commission Expires 11-30.

WARREN C. WELCH
Notary Public, New York
No. 402563
Qualified in State of New York
My Commission Expires 9-1-1991

STATE OF NEW YORK, COUNTY OF

SS:

On the day of 19 , before me personally came
to me known, who, being by me duly sworn, did depose and
say that he resides at No. .

that he is the
of

in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation, and that he signed his name thereto by like order.

STATE OF NEW YORK, COUNTY OF

588

On the day of 19 , before me personally came the subscribing witness to the foregoing instrument, with whom I am personally acquainted, who, being by me duly sworn, did depose and say that he resides at No.

that he knows

to be the individual described in and who executed the foregoing instrument; that he, said subscribing witness, was present and saw execute the same; and that he, said witness, at the same time subscribed his name as witness thereto.

Bargain and Sale Deed WITH COVENANT AGAINST GRANTOR'S ACTS

TITLE No.

SECTION 69
BLOCK 4
LOT 9.1.1
COUNTY OR TOWN

16/11/51

BERNHARDT

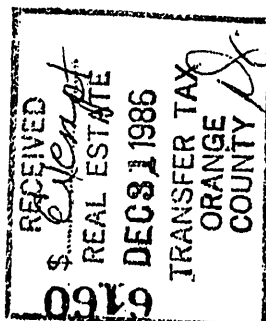
TO

BERNHARDT

RETURN BY MAIL TO:

Feinman, Greher & Kave, P.C.
532 Blooming Grove Turnpike
Newburgh, NY 12550
Zip No.

Reserve this space for use of Recording Office.



grave duty clerk's office
keep record of 31st
Rec'd
clock No. P... 1987-04-47
..... needed at page 26
and Examined.

Marion S. Murphy

Date 1/18/93, 19.....

TOWN OF NEW WINDSOR

**TOWN HALL, 555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553**

TO Frances Roth 389 Moores Hill Rd DR.
New Windsor Ny 12553

DATE		CLAIMED	ALLOWED
12/28/92	Zoning Board Meeting	75 00	
	Bembrandt - 9 - 40.50.		
	Clemenza - 4 - 18.00		
	Sarinsky - 26 - 117.00.		
	Misc - 3		
	<u>42 pgs</u>	<u>189 00</u>	
		306 00	

December 28, 1992

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TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS

DECEMBER 28, 1992

MEMBERS PRESENT: RICHARD FENWICK, CHAIRMAN
TED TANNER
LAWRENCE TORLEY

ALSO PRESENT: DANIEL LUCIA, ESQ.
ZONING BOARD OF APPEALS

MICHAEL BABCOCK
BUILDING INSPECTOR

PAT BARNHART
ZONING BOARD SECRETARY

PRELIMINARY MEETING:

BERNHARDT, ROBERT - SECOND PRELIMINARY

MR. FENWICK: Request for (1) 22,288 s.f. lot area, (2) 100ft. lot width, (3) 25 ft. front yard, (4) 29 ft. side yard, (5) 26 ft. total side yard, (6) 15 ft. rear yard, and (7) 19 ft. 8 in. max. building height variances for muffler shop and service repair garage in a C zone.

Mr. Robert Bernhardt appeared before the board for this proposal.

MR. LUCIA: We have a revised agenda that after deducting easement area, 17,712 square feet and creates a net square footage variance request of 22,288. You had submitted those figures to Mike?

MR. BERNHARDT: Yes, that is correct, of the proper measurements of the easement. And this is the figures that we came up with.

December 28, 1992

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MR. TORLEY: Now these 7 variances, would cover the entire property or they are not just required by the new addition?

MR. BERNHARDT: Yes, that is correct.

MR. BABCOCK: Could cover the entire structure in the rear that is the only one we're dealing with, the existing house is pre-existing.

MR. FENWICK: What are we trying to do, clear up a mess?

MR. BERNHARDT: One of the questions was not only the easement and deductions, was the special permit if it did exist and there itself that was issued in '87, I think. Because wasn't there a question of grandfathering it in?

MR. LUCIA: I think what comes up in looking at that map that you submitted it's in fact stamped site plan approval granted by the Town of New Windsor Planning Board on November 13, 1987. And you know I have no doubt the Planning Board intended to approve your special permit application, the problem arises is that that map does not have any zoning table. Nor does it show any offsets from any of the buildings except the garage which shows 15 foot side yards and 15 foot rear yard. So I don't think it was evident to the Planning Board at the time that they approved it that there were variances needed because it was one no zoning table showing that it did not meet the zoning requirements and there weren't any offsets shown to flag that some of the buildings might be too close to various side lines and front lines and not meet the required offsets. So I think the Planning Board probably has never considered the issue because it didn't arise from a quick review of the map. What you have been cited for now by the building inspector are all of the zoning deficiencies on the property and if you pursue this application that is the appropriate way to resolve it.

MR. BERNHARDT: That is why they were drawn together in cooperation with Mark Edsall. Mark Edsall is who in

December 28, 1992

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fact approved all of this.

MR. BABCOCK: Just for the board's knowledge, this was an existing building and in 1987, I don't think the Planning Board looked at an existing building that it had to meet the code, it was change of use, building was there, they went with it, as far as the use. Today, when we have a building, and it's an existing building, even though the use, if the use changes, it must be brought up to current specs of the use that is going to be in the building so I think that is what dilemma was put into him as far as the amount of variances that he needs.

MR. LUCIA: You're doing the right thing, this is the way to get it resolved.

MR. FENWICK: This is the map that was approved by Tippy Jones. It sure is beyond me how anything like this could have gotten passed any board anywhere.

MR. TORLEY: I wouldn't want to try to penalize the--

MR. FENWICK: I'm not saying that, the applicant he asked for it and he got his special permit. Right, wrong or indifferent.

MR. LUCIA: We have a copy of that in the file.

MR. TORLEY: How long have you been in business there?

MR. BERNHARDT: '87, since I got the permit.

MR. FENWICK: What would be the point of this addition, why do you need this addition?

MR. BERNHARDT: What had happened was two years ago the recession put me out of business of things that I was doing that became illegal, window tint, I was doing coatings, I was doing you coat a car today and you void the warrantee, ultra-seal, Rusty Jones, Quaker State, they all went out of the business in coatings so it tapered down to between that going out and the rest of the recession took away now I wanted the proposal of the new building to do muffler repair to do still work

December 28, 1992

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on cars and exercise my permit but only to expand it with the addition of the 4 post lift.

MR. TANNER: Present structure you can't have a 4 post lift?

MR. BERNHARDT: Yes, sir, we talked about that and the building can't be altered to raise the roof. We talked about that.

MR. BABCOCK: Basically, the structure that is there now is a 2 car garage, to put a lift in, you couldn't lift the car up, it wouldn't go up.

MR. FENWICK: So this isn't a business you're in now, you don't change mufflers?

MR. BERNHARDT: I do nothing right now, maybe clean a few cars. And I still may sell a few cars which again I have a special permit for but that is built.

MR. LUCIA: Is there a different special permit than this application for the sale of cars?

MR. BERNHARDT: Well, no, I don't think so, you know why because it's zoned for it anyhow and the zoning I remember I didn't even need that because it was written on the map somewhere where I can do it anyhow.

MR. BABCOCK: You should address that with the board with the Planning Board to make sure of that issue.

MR. LUCIA: The reason I raise that if you look back at your original special permit application from 1986, I guess it was that was to permit working on cars, waxing, body side moldings and pin striping, et cetera, whether they included within that sales.

MR. BERNHARDT: Part of the et cetera was to keep 15 cars unregistered on my property, the sale of cars was all in the minutes back then.

MR. LUCIA: The minutes of I guess August 26, '86 meeting have not to exceed more than ten cars.

December 28, 1992

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MR. BERNHARDT: Okay, ten cars, I apologize.

MR. LUCIA: You go back to the Planning Board anyway to make sure of it, tell them and square it away.

MR. BERNHARDT: As soon as I finish there I still have to go back there to clear up, which I had done, I confirmed up to the point with the Planning Board with what I want to do I had to create 11 spots there with a handicapped spot and everything up until now is conforming fine. The only thing I have to do is just the variances and I assume according to them when I go back if the variances are approved, they have no objection at all.

MR. FENWICK: How do the members of the board feel, we're just adding and adding. What happens if fixing buses becomes a good idea, then we--

MR. TANNER: My only concern is I don't have a real problem with mufflers and auto repair shop. I might have a problem with and I don't know where you draw the line there.

MR. FENWICK: We've got an awful lot on one small, very, very small piece of property and if one of the questions that you would be asked if this variance is substantial and it would be very hard to say no, this variance is not substantial. This variance is very substantial. He has a permit for what he is doing in there now I believe.

MR. TORLEY: Do you require a special permit to sell used cars in the area?

MR. BABCOCK: No, that is permitted use.

MR. TORLEY: I'm concerned, I'm reading number 21 in column A of the C zone in my copy of the bulk tables refers to motor vehicle sales establishments for new motor vehicles. Any repair and service garage shall be permitted only as accessory uses to sales establishments located on the same lot. Under uses, under special permit and I see #5 on column B gasoline filling stations and service repair garages but nothing

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for used car sales.

MR. FENWICK: I'm not going to put him off with the situation, he has a certificate of occupancy. I have a copy in front of me for a one family and residential used car sales, certificate of occupancy is for use only.

MR. LUCIA: That C.O. is dated March first of 1984 which pre-exists even your owning the property.

MR. BERNHARDT: Yes, sir.

MR. LUCIA: It may have been grandfathered in something under in the building inspector's eyes at that point.

MR. TANNER: So e has a C.O. for it. How can we argue with that?

MR. BABCOCK: Under A 16, used car sales, it's there.

MR. FENWICK: I'm not debating apparently he has a viable business that has been operating up till this point with all the C.O.'s in good faith. I'm not questioning anything that is going on right now, I have an awful problem of adding to it.

MR. TORLEY: You said I have no problem with a muffler shop but I just don't want it to keep mushrooming.

MR. BERNHARDT: You can put that in writing, I just want to make a living.

MR. TANNER: I don't want to stop you from doing that either.

MR. TORLEY: Are we permitted to have such a phraseology, have a variance granted.

MR. LUCIA: You certainly can condition it I think from the applicant's standpoint since in good faith he thought he had that special use permit for certain activities and since the Planning Board in their decision issued a special permit for a number of automotive uses and then et cetera, you probably don't

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want to unduly restrict the applicant. If he lays out on the record exactly what that et cetera includes to this point in time and he wants to add to that a muffler shop, you can condition it on that basis, sure.

MR. FENWICK: Did you build that garage, that is there now or is that with the property?

MR. BERNHARDT: I hired a contractor and I worked with him.

MR. FENWICK: That garage that is there now was built under your direction that wasn't there when you bought the property?

MR. BERNHARDT: No, that never existed.

MR. BABCOCK: It was built as a 2 car accessory structure to his house then he asked the Planning Board to convert it to his repair shop which they did, they give him approval to do that.

MR. FENWICK: Are you in a financing situation with a new addition or not going with the bank?

MR. BERNHARDT: Pole building, no, well I got to see it will be a little close. I'm only talking about a single pole building.

MR. TORLEY: We're just concerned about the timeframe that you maybe under.

MR. FENWICK: That and the bank, what's exactly the bank looking for if you were sent here by the bank.

MR. BABCOCK: No, he's not sent here by the bank.

MR. BERNHARDT: To be honest with you, I'd have to wait until March anyhow to pour concrete.

MR. TORLEY: We don't want to have to make you jump through more hoops than necessary.

MR. FENWICK: Anymore questions from the members of the board? He's entitled to a public hearing.

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MR. TORLEY: So moved.

MR. TANNER: Second it.

ROLL CALL

MR. TORLEY	AYE
MR. TANNER	AYE
MR. FENWICK	AYE

MR. FENWICK: I'm going to turn it over to the attorney, he is going to explain to you what's necessary if you come back here for your public hearing.

MR. LUCIA: You are applying for a number of area variances and the standard on all of them is the same. In making this determination, the ZBA has to take into consideration the benefit to you if the variance is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by granting that variance. There are 5 specific factors you have to speak to in order to carry that burden of proof and I'm going to give you a copy of Section 267 B and I put an arrow in the margin next to the paragraph that lists those five factors so when you come back, you should speak to each of those particular issues. When you come back, we'd like to see a copy of the deed and title policy from when you bought the property, some photographs of the site, you probably should take photographs of the house and the repair garage because some of these variances have to do with different parts of the property just so the board has a picture.

MR. BERNHARDT: An aerial shot?

MR. LUCIA: No, just walk it, take it from different views down the driveway from the yard just so the board can see what it is you are talking about when you come in and speak to these several variances. Pat will give you an application.

MR. BERNHARDT: Does this mean that I have to send the letters out within 500 feet?

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MR. LUCIA: You have to get a list from the assessor at will give you an application which has an instruction sheet that tells you everything you have to do. If you have any questions, give her a call, she can help you and when you return that you have to return 2 checks both payable to to the Town of New Windsor. One for an application fee that is \$150 and second for \$250 in escrow against the town consultant fees and various disbursements the board has in processing your variance application. And I think that should be it.

Date 12/1/92 19.....

TOWN OF NEW WINDSOR

TOWN HALL, 555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

TO FRANCIS ROTH 389 Moores Hill Rd DR.
New Windsor, NY 12553

DATE			CLAIMED	ALLOWED
11/23/92	Zoning Board Meeting		75 00	
	Misc - 1			
	Quinn - 2 - \$9.00			
	Bonura - 3 \$13.50			
	Walsh - 9 \$40.50			
	Bernhard T - 12 - \$54.00			
	Marin - 5 - \$22.50			
	Rose - 5 \$22.50			
	Jones - 6 \$27.00		193 50	
	43		268 50	
	APPROVED:			
	Chairman			

RETAKE
OF
PREVIOUS
DOCUMENT

Date 12/11/92 19.....

TOWN OF NEW WINDSOR

TOWN HALL, 555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

TO FRANCIS ROTH 389 Moores Hill Rd DR.
New Windsor, NY 12553

DATE			CLAIMED	ALLOWED
11/23/92	Zoning Board Meeting		75 00	
	Misc - 1			
	Ogino - 2 - \$9.00			
	Bonura - 3 \$13.50			
	Walsh - 9 \$40.50			
	Bernhard T - 12 - 54.00			
	Marin - 5 - \$22.50			
	Base - 5 5 \$22.50			
	Jones - 6 \$27.00		193 50	
	43		268 50	
	APPROVED:			
	Chairman			

BERNHARDT, ROBERT

MR. FENWICK: Request for (1) 20,683 s. f. lot area, (2) 100 ft. lot width, (3) 25 ft. front yard, (4) 29 ft. side yard, (5) 26 ft. total side yard, (6) 15 ft. rear yard and (7) 19 ft. 8 in. maximum building height for proposed muffler shop and service repair garage located on Rt. 94 in C zone.

Mr. Robert Bernhardt appeared before the board for this proposal.

MR. LUCIA: I should mention before Mr. Bernhardt gets started I think I represented you long, long time ago but nothing in relation to the Town of New Windsor. I don't see any conflict unless you have a problem with that.

MR. BERNHARDT: Okay. Do you have the maps here, Pat, or what do I do at a Preliminary Hearing?

MR. FENWICK: We want the question addressed first.

MR. BERNHARDT: What's that?

MR. LUCIA: You were a client of mine many many years ago.

MR. BERNHARDT: I don't remember.

MR. LUCIA: That is how long ago and it had nothing to do with the Town of New Windsor, just to avoid a conflict, I wanted to make the board aware. I see no problem with it, if you see no problem. You're welcome to proceed.

MR. BERNHARDT: If you say so. Basically, I'm just asking for a 16 by 24 which is 380 square foot building in addition to my garage, attached to my garage an old building with a 16 foot ceiling and a 4 on 12 roof to just to include muffler repair. I have a special permit that is to work on cars and not sell cars. I have another permit for a lighted sign out in front. Mark Edsall had mentioned that as long as I'm seeking the variances for this building, to throw in, to get

them all in. The size of my property apparently doesn't match up, doesn't measure up to either what I am asking for or what I already have so as long as I'm here for the variance on a building, Mark Edsall has included as you can see, the numbers on the side which you read off. I guess they are accurate as to the variances of the dimensions that I need, if I am saying that right.

MRS. BARNHART: Where is location of this, Bob?

MR. BERNHARDT: This is Route 94 next to the bus garage next to West Point Tours Bus Company. I have been retired for seven years. I have been using my permit for seven years and there's been no complaints whatsoever in the neighborhood.

MR. TORLEY: Which one of these variances if you can reflect the addition of this garage you're going to put up?

MR. BERNHARDT: You got, this is Paul Cuomo who put this together.

MR. TORLEY: Or obviously it's not the--

MRS. BARNHART: Here's a copy of the Planning Board minutes, if that helps you.

MR. LUCIA: No, they just sent it along.

MR. KONKOL: Basically, most of these variances you're seeking you're in violation right now.

MR. BERNHARDT: Yes, sir, just to get here I had to show all of the parking to show the Planning Board that I had handicapped and I provided 11 spots which I have so everything else is in order except the variances that I need.

MR. TORLEY: How long has this shop been in operation?

MR. BERNHARDT: For 7 years, since '86, I believe.

MR. TORLEY: I'm not sure I understand how this got

going in the first place.

MR. NUGENT: He wants to put addition on his existing building.

MR. TORLEY: The lot and everything pre-existed zoning, that is my question.

MR. NUGENT: No, he got variances for all that. He had a building that he worked on. He has a garage back here and he has a building that he has been working on for seven years but now he wants to expand his business and he needs an addition to that garage that is where all this other stuff came up.

MR. TORLEY: Any question the Planning Board had done this? I don't recall anything coming to the Zoning Board in past times but since you said it did.

MR. NUGENT: Oh, yes he's been before this board.

MR. FENWICK: Not for this.

MR. NUGENT: For the other garage he was, we gave him a variance for that garage.

MR. TANNER: Why didn't we take in the area?

MR. NUGENT: We gave him a variance for the sign out front.

MR. KONKOL: The Planning Board gave him special permit.

MR. FENWICK: That was seven years ago, Planning Board had to give him a special permit.

MR. LUCIA: I think we can research whether or not he has any variances from this board in the past.

MR. BERNHARDT: I have the map that is signed.

MRS. BARNHART: That is from the Planning Board that would be for a special permit but you didn't come before this board.

MR. NUGENT: I think he did.

MR. NUGENT: We may not have acted, we may have passed him on.

MR. FENWICK: That very well may be. The thing that I don't understand is the square footage it was never if this was in fact a business, the square footage was never allowable thing anyway and if it was and if there was a variance.

MR. NUGENT: Change that zone?

MR. FENWICK: I thought that it was always a C.

MR. NUGENT: Don't you remember when we had the trailer park it was right in his back yard.

MR. FENWICK: Yes, that was C.

MR. TORLEY: Only question is whether this lot was this size before zoning started so it got grandfathered in.

MR. NUGENT: It wasn't a lot before Zoning Board, your house was built before '67.

MR. FENWICK: '72.

MR. BERNHARDT: There was a dispute over the sewage that came through which was an easement but that was all.

MR. FENWICK: Is there a sewage easement shown on that property now?

MRS. BARNHART: Application in another name?

MR. BERNHARDT: No.

MR. TORLEY: I don't see one noted.

MR. LUCIA: The reason for the question about the sewer easements if Paul hasn't shown it on the survey, he probably should because it effects the amount of the

lot area variance you need to apply for because under the Town's present zoning code, you have to reduce your lot area by any area within an easement.

MR. BERNHARDT: Well, it just touches the edge right here.

MR. LUCIA: If that is only two feet wide or 5 feet wide, it still effects your area so it is going to change the area variance you're applying for. I'm just suggesting it because you want to dot all your i's and cross all your t's and it probably can have some effect. I'd just mention it to Paul, let him show it on here. If he wants to review the map, he can.

MR. BERNHARDT: I can bring that back to Paul and have him do it.

MR. TORLEY: The idea is if you ask for 20,683 foot and turns out to be 23,694 feet, something like that.

MR. FENWICK: This is what I don't understand if it's legally operating now the only thing we should be talking about is the addition and the new building but they have got the whole ball of wax there.

MR. TANNER: It was never cited.

MR. NUGENT: Mike is bringing the whole piece of property up to code.

MR. FENWICK: I'd like to know if it pre-existed then it doesn't make any difference if the law changed, it pre-existed so this doesn't come into effect, am I correct?

MR. LUCIA: Yeah but the applicant would need to give us evidence to establish that if he can't come in with a copy of the variance from this board or a signed map showing that it was granted, better do it the way Mike did and bring it up to today's code, get it out of the way.

MR. FENWICK: I want to know if in fact that is true.

MR. NUGENT: I don't think Mike was the zoning inspector then.

MR. TORLEY: Even if that were the previous structures were taken care of, the new structures would require variances so in this case, it doesn't matter. You might as well take care of the whole ball of wax.

MR. FENWICK: We're talking about 16 by 24 foot addition onto an existing, if possibly legal situation which is not much of a variance. If we look at all these items are here, we have a considerable variance, this is considerable. When we look at this, this is considerable for what the operation is. If he's operating legally now, under some shelter of the law, then very possibly we're only looking at a small addition onto a garage as opposed to looking at, this is considerable, this is really considerable.

MR. NUGENT: It's C zone, 80,000 square feet.

MR. FENWICK: We're looking at two different things here. Is it just going to be a small minor are variance, a small addition or are we looking at a very large situation here. A considerable variance. We've got every side yard, front yard, everything that can be addressed in the book is here.

MR. TANNER: Makes it much more difficult with him if we can narrow it down it will make it easier for the applicant.

MR. TORLEY: We have to research our records and ask for the records from the Planning Board.

MR. BERNHARDT: I don't think I ever went to the Zoning Board back in '86, I don't think I did. This was all done by the Planning Board.

MR. FENWICK: Doesn't make any difference even if he was given special permit, it still has to be on a legal piece of property. So for some reason or another if he was granted a special permit, maybe things were weighed by the Planning Board which is above and beyond what this board is going to do but that is what I am saying

we're looking at a huge variance here. This is not a minor variance. This is huge because it's on your whole piece of property. If you have a special permit that somewhere along the line they have allowed you to operate and maybe if the law has changed as far as square footage, side yards or whatever maybe we're not looking at anything considerable here.

MR. BERNHARDT: Mark Edsall told me that everything would be fine if I didn't make any waves and I didn't sell the building, whatever that means. Now, as long as I'm asking for this extension, this is why I had to ask for all of these variances to get everything right. This is what Mark Edsall said.

MR. TORLEY: You have to find out the history of this property.

MR. NUGENT: We never did it before.

MR. LUCIA: He certainly has been cited for all these sections so it would appear that on the building inspector's records none of it has been approved because Mike would have cited it differently.

MR. BERNHARDT: You say approved, I have a map that is signed.

MR. LUCIA: I'm not denying that, the Planning Board has certain jurisdiction, site plans and special permits for your particular use. That allows you to operate there. But it assumes that your operation meets within all of the four corners of the zoning code. If it didn't meet it at the time, the special permit may not have really been valid but you're doing what you have to do to get it squared away. Now, we're not saying that you don't have special permit, all we're saying maybe somebody missed an issue when that special permit was granted or missed a number of issues judging by the Notice of Denial.

MR. BERNHARDT: Maybe these zoning changes were relevant.

MR. FENWICK: We want to get that straightened out.

like I said, we have the small variance possible versus a very large variance and the way that this thing is written right now, it looks like you're in total violation right now, I mean, whether you put this addition on or not, you're in total violation.

MR. BERNHARDT: If I was, can't we re-write it right now?

MR. LUCIA: What the Chairman is trying to determine and the reason for all this discussion is if you have a use that is permitted, either through variance or through being grandfathered, whatever, by putting on the addition, you're only looking for little incremental change, you don't have enough lot area, you never have enough lot area that is not changing but you're now with the addition going into somebody's rear yard or whatever else is involved here. All the board's looking at is the change. How much of the addition effects your side yard, rear yard, whatever. If instead we're looking the whole package there were no variances then it's very substantial compared to the ordinance. That doesn't mean that you are going to fail, just means your standard of proof is higher.

MR. TANNER: If we have the map, we can backtrack from that point. We at least know when the Planning Board dealt with it, we can look in the minutes and work from that point.

MR. BERNHARDT: I not only submitted the minutes but the paper that is signed to Myra, she has copies of that.

MR. LUCIA: It's up to the board if you just want to table it to let him do some research, get the prior files and come back to us and make a presentation as to what they did in '86 so you understand and we understand then we know how much further you need to go.

MR. FENWICK: If he gets it squared away with this proposed addition being where it is, he doesn't need anything. He's got plenty of side yard, in other words, what's happened this whole piece of property has

been addressed actually it doesn't have anything to do with the addition, it's probably perfectly legal. If he wanted to put that addition on the garage just watch out for developmental coverage, that is all I can say.

MR. TORLEY: It's a garage in a C zone and you didn't even have--

MR. BERNHARDT: Why did Mark Edsall have me put all of those changes in and make those changes then?

MR. LUCIA: He's looking at it as if none of this was ever approved, not ever approved for special permit, was never approved by the Zoning Board.

MR. BERNHARDT: He must be right then.

MR. LUCIA: Maybe he is as far as the 30 percent I'm not sure if that is going to apply for a special permit use but anyway, what the issue there is in certain areas, you would be entitled to enlarge your operation up to 30 percent of the floor area, if your addition is under that.

MR. BERNHARDT: What you're saying if I haven't been to the Zoning Board before, then I just show proof of my special permit map and come back here again, is that what you're saying?

MR. LUCIA: Unless you can establish that it is grandfathered by virtue of zoning.

MR. BERNHARDT: Who can tell me that?

MR. LUCIA: Talk to Mark and the building inspector.

MR. FENWICK: Mainly the building inspector, probably.

MR. NUGENT: If he has a stamped map in there in Myra's office, that says that he is permitted to use this piece of property for the use that he was using it for then he doesn't have to come here at all, only he may need a small variance.

MR. LUCIA: That special permit is only for the use but

does not have anything to do with the area.

MR. NUGENT: He's not changing the use.

MR. LUCIA: If at the time that special permit was granted he didn't meet the zoning requirements for side yard, rear yard what good is the special permit?

MR. NUGENT: How did he get it?

MR. TORLEY: Maybe someone made an error.

MR. BERNHARDT: It was Tippy Jones who signed it who's no longer with us.

MR. KONKOL: Are you seeking any kind of refinancing now?

MR. BERNHARDT: No.

MR. KONKOL: It's a possibility that could be Linc, okay, so he's not--I think you better go back and get all your papers together and sit down with Cuomo and Mark Edsall and see where you are coming from.

MR. BERNHARDT: What do I tell Mark Edsall and Paul Cuomo?

MR. LUCIA: We're not sure whether at the time this special permit was granted the Planning Board considered the issue of whether area variances were needed. If they did, there should be something in the file to say so. If they didn't, then you need to apply for everything that is shown on this sheet which is fairly heavy burden but you certainly can apply for it.

MR. FENWICK: If some--

MR. BERNHARDT: I want to make sure that I ask Mark.

MR. FENWICK: If somewhere along the line some group, individual or whatever representing the Town has allowed him to do this, this will also weigh in your favor.

MR. LUCIA: You still need the variance but it gives you the history on your side to say gee, I thought I did what they told me to do at the time.

MR. BERNHARDT: I probably have it in my folder right here.

MR. TORLEY: We want the whole history anyhow.

MR. LUCIA: I'd suggest you talk to Paul.

MR. BERNHARDT: Who's job would that be?

MR. LUCIA: Talk to Paul, have him call Mark and Mike and see, Mike Babcock.

MR. BERNHARDT: I can sit down at the next workshop with the Planning Board and I'll square it away?

MR. TORLEY: Hopefully.

MR. NUGENT: If you had a stamped map.

MR. BERNHARDT: I not only have one special permit, I have the special permit for the sign, I have one for special usage.

MR. FENWICK: You don't get special permit for signs.

MRS. BARNHART: Are you sure it wasn't under another name previous?

MR. BERNHARDT: No, I started all of this in '86.

MR. TANNER: Wouldn't have been under a business name?

MR. BERNHARDT: No, I started when I retired in '86 from here, from the Town I started all of this. I started all of this a year before I retired.

MRS. BARNHART: Let me look it up. I don't know why they didn't have me do this in the first place.

MR. BERNHARDT: I'll go back to Mike Babcock, I'll get on the agenda for the workshop and I'll sit down with

Paul and Mark.

MR. FENWICK: You should be able to square this away.

MR. BERNHARDT: To bring Mark Edsall in, he's not going to come in, especially for me.

MR. FENWICK: I don't think you need Mark. Mike Babcock is all you have to talk to.

MR. BERNHARDT: And I'll consult you if I don't have the language right.

MR. LUCIA: Basically what we're looking for is whether the specific line items on the variances requiring for lot area, side yard have ever been considered before by this board or by the Planning Board.

MR. BERNHARDT: Now I remember that when I did go to the Planning Board, I had to send the letters 500 foot around, I had a public hearing.

MRS. BARNHART: If he went for a special permit on the Planning Board, he would have had to do the same thing.

MR. NUGENT: I'll make a motion that we table Mr. Bernhardt's application for further information.

MR. TANNER: I'll second it.

ROLL CALL

MR. TORLEY	AYE
MR. NUGENT	AYE
MR. TANNER	AYE
MR. KONKOL	AYE
MR. FENWICK	AYE

NEW WINDSOR PLANNING BOARD SPECIAL MEETING
TOWN HALL
TUESDAY, AUGUST 26, 1986 7:30 P.M.

BOARD MEMBERS PRESENT: HENRY REYNS, CHAIRMAN
ERNEST SPIGNARDO, VC
LAWRENCE JONES
HENRY SCHEIBLE

BOARD MEMBERS ABSENT: HENRY VAN LEEUWEN
CARL SCHIEFER
DANIEL MCCARVILLE

OTHERS PRESENT: JOSEPH RONES, PB ATTY.

Chairman Reynolds called the meeting to order and presided over same.

~~#1 on the agenda:~~ Bernhardt Special Permit Decision.

Motion by Lawrence Jones seconded by Henry Scheible that the Planning Board approve the Special Permit Application of Robert Bernhardt located on Route 94.

Note: Not to exceed more than ten (10) cars.

Roll call: All ayes, no nays.

#2 on agenda: Discussion with Lexington Hill representatives re: the property on Route 32 which they would like to develop. Discussion followed.

#3 on agenda: Plum Point South Site Plan
Discussion with Mark Silverwood, and Do Chung of Liverzeni Assoc.
The number of units - 530 - No change
Townhouses 1700 square ft. 3 bedroom
here will be 1 bedroom units, 2 bedroom units.

Westchester Federal Savings - White Plains.

Chairman Reynolds thanked the gentlemen for coming and discussing their plans with the board.

If there is no further business I will entertain a motion to adjourn.

Motion by Henry Scheible seconded by Lawrence Jones that the Planning Board adjourn the meeting of August 26, 1986.

Roll call: All ayes, no nays. Meeting adjourned.

Note: Minutes typed by secretary, minutes taken by Chairman Reynolds.

Respectfully submitted,

Shirley B. Hassdenteufel
SHIRLEY B. HASSDENTEUFEL
Secretary



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TOWN OF NEW WINDSOR

555 UNION AVENUE
NEW WINDSOR, NEW YORK

September 4, 1986

Mr. Robert Bernhardt
PO Box 407
Vails Gate, New York 12584

RE: Application for Special Permit #86-41
Planning Board

Dear Bob:

This is to confirm that a public hearing was held regarding the above-entitled application before the Planning Board. The Board voted to grant your request for a special permit at the August 26, 1986 special meeting.

A formal decision will be drafted at a later date and acted upon by the Board. You will be receiving a copy when this is done.

Best regards.

Very truly yours,

SHIRLEY B. HASSDENTEUFEL
Secretary to Planning Board

/sh

cc: Town Building Inspector
Zoning Board of Appeals

Application No. _____ Permit No. N/A

Building Department

(~~City~~), TOWN (~~Commissioner~~) OF New Windsor
(Address and Telephone Number)

County of: Orange

Location: So. Side N.Y.S. Rte 94

Map No.: _____ Section: 69 Block: 4 Lot: 9.1

Certificate of Occupancy

No. 18

Date March 1 1984

THIS CERTIFIES that the building located at premises indicated above, conforms substantially to the approved plans and specifications heretofore filed in this office with Application for Building Permit dated _____ 19____, pursuant to which Building Permit was issued, and conforms to all the requirements of the applicable provisions of the law. The occupancy for which this certificate is issued is _____

One family Residential and used car sales
C.O. for use only

This certificate is issued to Robert Bernhardt
(owner, lessee or tenant)

of the aforesaid building.

J. J. Kennedy
Superintendent of Buildings

(The Certificate of Occupancy will be issued only after affidavits or other competent evidence is submitted to the Superintendent of Buildings that the completion of the construction in compliance with the State Building Construction Code and with other laws, ordinances or regulations affecting the premises, and in conformity with the approved plans and specifications. A final electrical, plumbing, heating or sanitation certificate or other evidence of compliance may be required before the issuance of the Certificate of Occupancy.)

October 14, 1992

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BERNHARDT, ROBERT SITE PLAN (92-36) ROUTE 94

Mr. Paul Cuomo appeared before the board representing this proposal along with Mr. Robert Bernhardt.

MR. CUOMO: This project was worked on during the workshop session and reflects workshop session for the Planning Board and what happened was that we have here 7 potential variances, the lot area, lot width, front yard, side yard, both side yard and building height and we're in a situation where we would have to get variances before we can come back here again.

MR. PETRO: Gentlemen, if the applicant receives the variances in question from the New Windsor Zoning Board, does anyone see any major difficulties or problems with the site plan as represented to us tonight?

MR. SCHIEFER: I don't, if he can get the variances, I have absolutely no problem but if you are suggesting giving approval subject to the variances--

MR. PETRO: Oh, no.

MR. SCHIEFER: I thought that was going to go too far.

MR. PETRO: I'm a liberal chairman.

MR. BABCOCK: I think they need a referral to the ZBA.

MR. PETRO: Before we send them there, I wanted to make sure there wasn't any problems.

MR. LANDER: Paul, let me know what variances you think you need here.

MR. CUOMO: Lot area we're short 20,000, lot width we're short 100 feet, front yard we're short 25 and the side yard, where the carport is, right Bob, we want to get that one because we're only a foot away with the carport, we're five foot off the line and then we're going for both sides, has to be total of 70 and we only got 44 so we're going to go for 26 feet there and the rear yard we're short 15 feet and the height of the

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building we're short 15 feet.

MR. SCHIEFER: Short or too tall?

MR. CUOMO: So it only allows us a 5 foot high building and that is kind of hard.

MR. LANDER: Mr. Chairman, I make a motion that we approve the Bernhardt Muffler Repair Site Plan.

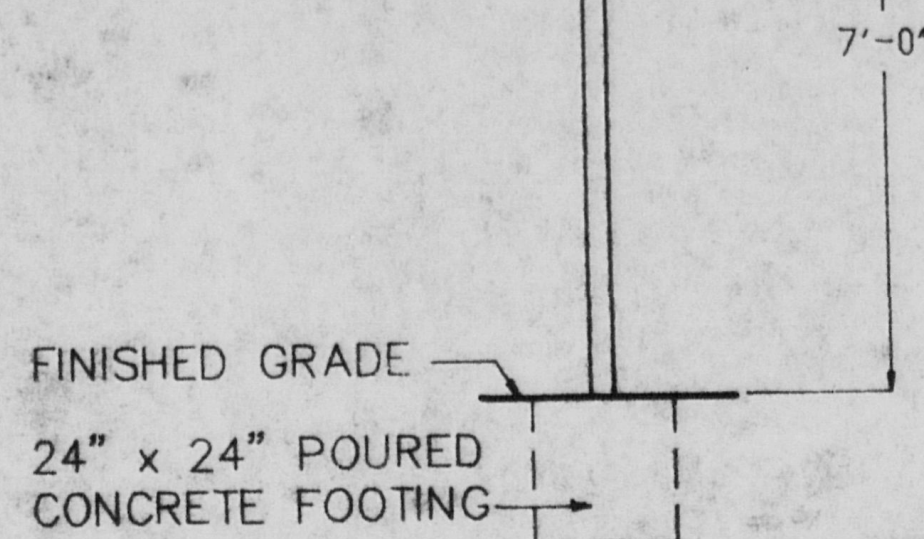
MR. SCHIEFER: I'll second it.

MR. PETRO: Motion has been made and seconded to approve Bernhardt Muffler Repair Site Plan. Roll call.

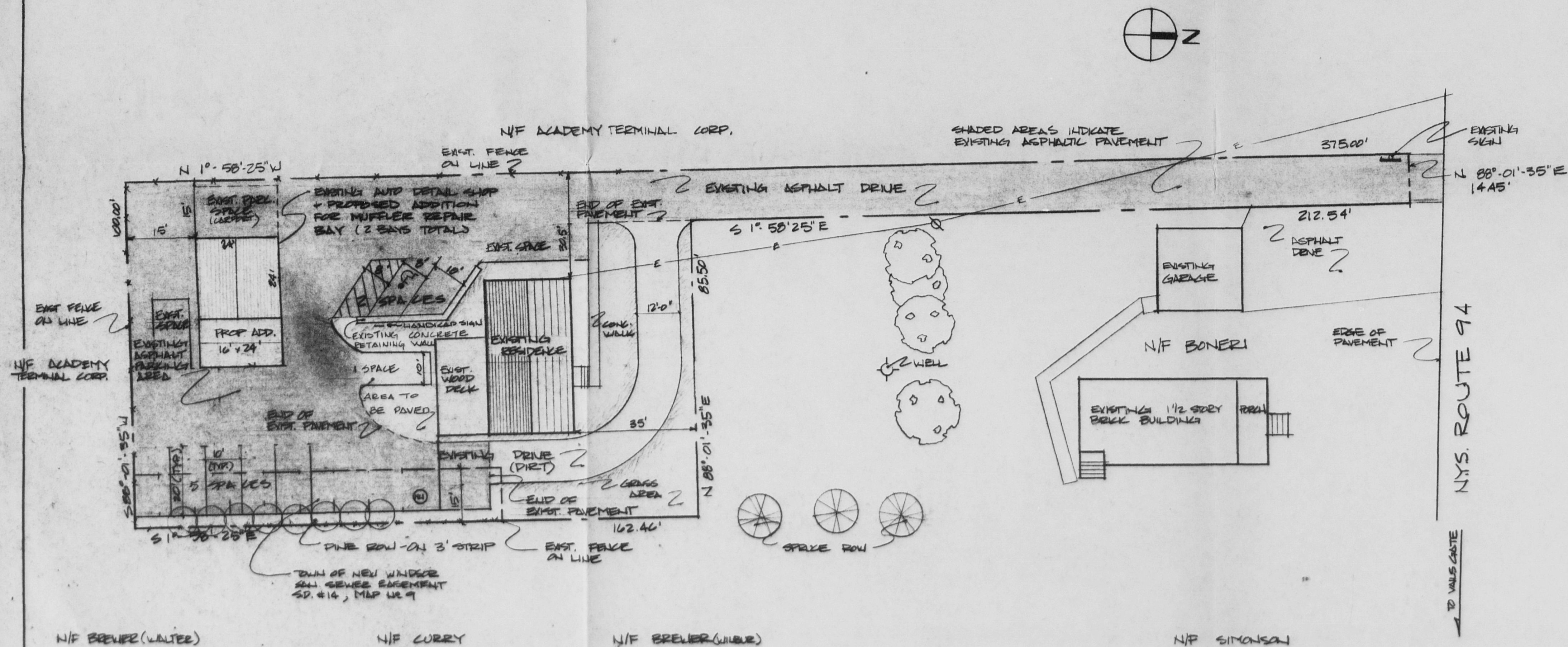
ROLL CALL

MR. DUBALDI	NO
MR. LANDER	NO
MR. PETRO	NO
MR. SCHIEFER	NO

HANDICAPPED
PARKING SIGN
WHITE LETTERING
W/ BLUE BACK-
GROUND



HANDICAP SIGN DETAIL
NO SCALE



SITE PLAN
SCALE: 1"=20'



LOCATION MAP

ZONING REQUIREMENTS

DISTRICT C - DESIGN SHOPPING USE COL. B, 5

SECTION 69, BLOCK 4, LOT 97

ITEM	REQUIRED	PROPOSED	VARIANCE REQ'D
LOT AREA	40,000 SF	19,317 SF	YES
LOT WIDTH	200'	100'	YES
FRONT YARD	60'	35'	YES
SIDE YARD	30'	1'	YES
BOTH SIDES	70'	44'	YES
REAR YARD	30'	15'	YES
FRONTAGE	N/A	N/A	NA
MAX. BLDG. HGT. (5)	4' FT. TO LOT LINE	20' ±	YES
FLOOR AREA RATIO	0.5	0.08	
LOT COVERAGE	N/A	N/A	-

* INDICATES EXISTING NONCONFORMING CONDITION

PARKING REQUIREMENTS

REQUIRED: 4 PER BAY + 1 FOR EACH 300 SF
OUTSIDE OF SERVICE AREA
2 BAYS x 4 = 8 SPACES
HAVE 2 SPACES REAR
TOTAL REQ'D 11 SPACES
PROVIDED: 11 SPACES INCLUDING 1 HANDICAP

GENERAL INFORMATION

1. SURVEY INFORMATION:
INFORMATION SHOWN TAKEN FROM PREVIOUS
SITE PLAN APPROVED FOR AUTO DETAIL
SHOP ON NOV. 13, 1987 & FIELD OBSERVATIONS
BY THIS OFFICE
2. OWNER & APPLICANT:
ROBERT & COLLEEN BERNHARDT
3. ADDITION TO EXISTING USE WHICH RECEIVED
STAMP OF PLANNING BOARD APPROVAL
DATED NOVEMBER 13, 1987
4. HEIGHT OF PROPOSED ADDITION: 18'-8"

NOTE:
THIS PLAN IS COPYRIGHTED
UNAUTHORIZED ALTERATION
TO THIS PLAN IS A VIOLATION
OF SECTION 7209(2) OF THE
NEW YORK STATE EDUCATION
LAW.

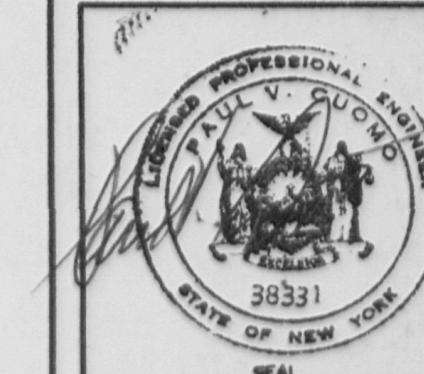
DATE	ISSUANCE	BY
9.17.88	PL. BOARD	MJR
9.24.88	PL. BOARD	MJR
9.18.88	PL. BOARD	MJR
10.4.88	PL. BOARD	MJR

DATE	REVISIONS	BY
9.24.88	PER WORKSHOP	VAR
9.25.88	SHOWN ON PAVE	MJR
9.19.88	CH. USE TO EMT.	MJR

PAUL V. CUOMO, P.E. & ASSOCIATES
STEWART INTERNATIONAL AIRPORT, NEW WINDSOR, N.Y. 12553 (914) 567-0063

SITE PLAN

PROPOSED MUFFLER REPAIR
ROBERT & COLLEEN BERNHARDT



DATE: 8/19/91
DRAWN BY: MJR
CHECKED BY: PNC

SCALE: AS NOTED

PROJECT NO.: 91345

SP-1
SHEET 1 OF 1